

# IMPACT OF THE PRESIDENT'S VETO OF THE FISCAL YEAR 1996 VA-HUD APPROPRIATIONS BILL

Y 4. AP 6/2: S. HRG. 104-452

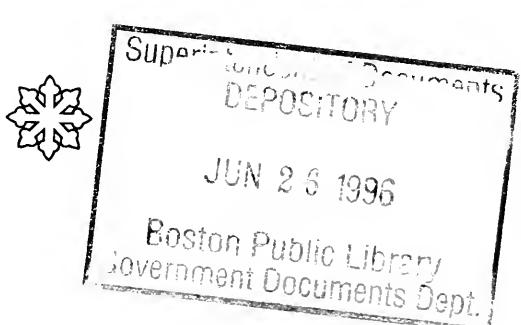
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## HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE ONE HUNDRED FOURTH CONGRESS SECOND SESSION

### SPECIAL HEARING

Department of Housing and Urban Development  
Environmental Protection Agency  
Nondepartmental witnesses

Printed for the use of the Committee on Appropriations



U.S. GOVERNMENT PRINTING OFFICE

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WASHINGTON : 1996

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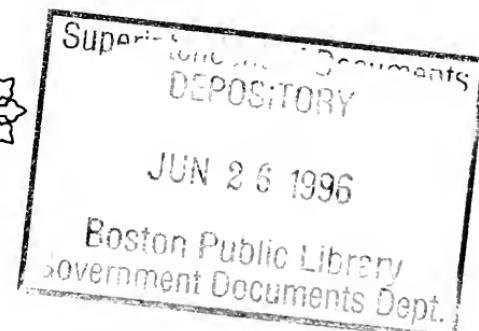
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## CONTENTS

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### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

	Page
Statement of Hon. Henry G. Cisneros, Secretary .....	1
Opening statement of Christopher S. Bond .....	1
Prepared statement .....	4
Statement of Barbara Mikulski .....	5
House Doc. 104-148, Dec. 18, 1995, veto of H.R. 2099 .....	6
Statement of Henry G. Cisneros .....	48
Prepared statement .....	53
Annual contribution contracts .....	55
Mark-to-market .....	56
CDBG and HOME funding levels .....	58
Questions submitted by Senator Ben Nighthorse Campbell .....	65

### NONDEPARTMENTAL WITNESS

Statement of Richard C. Gentry, executive director, Richmond Redevelopment and Housing Authority, Richmond, VA .....	67
Statement of Christopher S. Bond .....	67
Prepared statement of Richard C. Gentry .....	69
Statement of Michael Bodaken, president, National Housing Trust .....	71
Prepared statement .....	74
Statement of Patricia J. Payne, secretary, Maryland Department of Housing and Community Development .....	110
Prepared statement .....	113

### ENVIRONMENTAL PROTECTION AGENCY

Statement of Carol M. Browner, Administrator, Environmental Protection Agency .....	121
Opening statement of Christopher S. Bond .....	121
Prepared statement .....	124
Statement of Barbara Mikulski .....	125
Statement of Frank R. Lautenberg .....	126
Impacts of reductions .....	129
Prepared statement of Carol M. Browner .....	131
Budget levels .....	134
Prioritization of additional request .....	135
Impact to payroll .....	136
Impact to contractors .....	137
CR terms and conditions .....	138
CR impact to Chesapeake Bay .....	139
Impact to technical work force .....	140
Impact to Superfund sites .....	141
Enforcement impacts .....	142
Superfund response .....	143
EPM work force .....	145
Drinking water SRF .....	146
Response to NAPA report .....	148

### NONDEPARTMENTAL WITNESSES

Statement of Roberta Haley Savage, executive director, Association of State and Interstate Water Pollution Control Administrators .....	149
-----------------------------------------------------------------------------------------------------------------------------------------	-----

	Page
Statement of Roberta Haley Savage, executive director, Association of State and Interstate Water Pollution Control Administrators—Continued	
Prepared statement .....	152
Statement of William Birkhofer, vice president of corporate development, Sverdrup Corp .....	188
Prepared statement .....	189
Statement of Christophe A.G. Tulou, secretary, Delaware Department of Nat- ural Resources and Environmental Control .....	191
Prepared statement .....	194

# **IMPACT OF THE PRESIDENT'S VETO OF THE FISCAL YEAR 1996 VA-HUD APPROPRIA- TIONS BILL**

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**FRIDAY, JANUARY 26, 1996**

**U.S. SENATE,  
SUBCOMMITTEE ON VA, HUD, AND  
INDEPENDENT AGENCIES,  
COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.***

The subcommittee met at 10 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Christopher S. Bond (chairman) presiding.

Present: Senators Bond and Mikulski.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
STATEMENT OF HON. HENRY G. CISNEROS, SECRETARY**

**ACCOMPANIED BY:**

**MICHAEL JANIS, GENERAL DEPUTY ASSISTANT SECRETARY FOR  
PUBLIC HOUSING  
HELEN DUNLAP, ACTING DEPUTY ASSISTANT SECRETARY FOR OP-  
ERATIONS**

**OPENING STATEMENT OF CHRISTOPHER S. BOND**

Senator BOND. This hearing will come to order.

I would like to welcome Secretary Cisneros. Mr. Secretary, it was about 1 year ago we started this series of hearings, and after 1 year of hard work we are still talking about the same problems, but I thought this would be very important for us to have an idea of how the current financial situation and the appropriations situation and authorizing situation, has affected your Department. We need to know, as we either try to finish up appropriations for the current year, which is about one-third gone, or perhaps even look toward appropriations for next year, that we know what is actually going on at the departmental level and how these major changes are affecting you.

I think as everyone knows here, on December 18, President Clinton vetoed the VA, HUD, and Independent Agencies appropriations bill for fiscal year 1996. While I regard this as tremendously unfortunate, it was no surprise. The White House told us continually they are going to veto it unless we spent substantially more than was permitted under our budget allocation, and they have not been willing to discuss with me or to my knowledge anybody else on my side any compromise on the demands.

There was some movement after the veto. Before the veto the President asked for \$1.9 billion more. After the veto, the President asked for \$2.5 billion more, which is not really progress in terms of reaching an accommodation.

I had proposed and was willing to shift up to \$1 billion within our budget allocation to the priorities of the administration, including more for EPA, the National Service Program, and for HUD housing programs. That compromise was not acceptable.

I fear that this was almost a deliberate effort to avoid an agreement. I will not question the political judgment of the White House, but I think we have to address the adverse consequences of this impasse. Beyond the hundreds of millions of dollars squandered in the shutdowns of the Government, our failure to enact needed legislation jeopardizes much, much more. This hearing is not just to delineate the magnitude of the disaster. We are here today to find a way we can resolve this crisis.

I am very grateful to you, Mr. Secretary, for your willingness to join us this morning. This afternoon, we plan to continue these hearings with Carol Browner, Administrator of the Environmental Protection Agency, to discuss the impact of the budget impasse on her agency. I suspect that you, Mr. Secretary, and Ms. Browner, and perhaps other members of the committee have a different perspective on who is to blame for the budget impasse, but I know all of us share a concern over the urgency to pass a budget with appropriate legislation and to enact long overdue program reforms.

We began over 1 year ago with a series of special hearings on the management and budgetary crisis at HUD. We examined deficiencies in a number of critical housing assistance programs and began the development of program and management reform measures which resulted first in the enactment of the Emergency Supplemental and Rescission Act of 1995.

That bill, which I might note was finally enacted after initial veto, it did not necessarily work out the way some of us wanted when it came back, but that bill began the process of eliminating unsustainable housing commitments and reducing some of the overregulation, and at the time we thought it was going to be followed by more comprehensive legislation.

Unfortunately, the authorization bill has been delayed, so the fiscal year 1996 appropriations bill included both funding and legislative changes to expedite the initiation of reforms necessary to preserve affordable housing in the face of the growing severity of our budgetary constraints.

That bill included the waiver of the one-for-one replacement rule to facilitate the demolition of failed public housing developments, which I think are real blights on the community. We also recommended rent reforms, repeal of counterproductive tenant selection rules, increased local administrative flexibility, accelerated modernization of public housing, elimination of the endless lease rule, and a host of other reforms, really to make more efficient and effective the use of limited Federal subsidy funding.

In addition to the program reforms the Congress approved provisions in the appropriations bills which addressed the impending loss of tens of thousands of affordable housing units through owner prepayment of subsidized mortgages, proposed demonstration pro-

grams for public housing flexibility, and for extending multifamily housing contracts.

Frankly, I was pleased and proud of what we were able to accomplish in the appropriations bill, especially as it related to the Department of Housing and Urban Development. In the face of our budgetary constraints and the sentiment of some of my colleagues that the Department should be abolished, it was surprising and a relief to arrive at a conference agreement with the House which sustained so many of our initiatives to approve and restore needed housing and community development activities.

Of course, it is in the nature of the compromise that not all of our objectives were satisfied fully. I know the Secretary is prepared to delineate a number of the administration's concerns, but that is not the focus of the hearing.

I hope we can address ourselves to the situation in which we find ourselves, one which achieves none of our shared reform goals, and fails to provide a full year budget for the Department and its many responsibilities.

Having come from the executive branch, I know what a problem you face, Mr. Secretary, if you have to prepare every month or 45 days for another shutdown. No way to run a railroad, and no way to run a Department. Maybe this hearing can give us some insight as to how we can get past the current budget impasse.

We are going to focus today on the disruption of only two of the major agencies funded by this committee, but these adverse consequences I would say to those who are with us today are occurring throughout the subcommittee's jurisdiction.

For example, the National Science Foundation has lost much of the time normally used to prepare for reviews and evaluations of grant applications for scientific research grants. Small business contractors of the National Aeronautics and Space Administration and other Federal agencies have been threatened with bankruptcy due to delays in payments from the Government, even when the products and services they provide are essential to health, safety, and preservation of property.

Thousands of their employees and their families are being subjected to the uncertainty and anxiety of whether they will receive a needed paycheck or have been laid off without any hope of pay solely because of a lapse in governmental funding, even after we put these disruptive consequences behind us finally by enacting these necessary appropriations bills, we could be in a position where we face late payment penalties due contractors and vendors.

Obviously, none of this would have happened had the bill initially passed by Congress and sent to the President been signed, but that is behind us. We need to move forward on the challenges ahead.

We have asked, Mr. Secretary, following your comments, to hear testimony from a panel of outside witnesses who will discuss the impact of the budget impasse on housing activities in which they are engaged.

[The statement follows:]

## PREPARED STATEMENT OF CHRISTOPHER S. "KIT" BOND

U.S. Senator Christopher S. "Kit" Bond, Chairman of the Senate Appropriations Subcommittee on Veterans Affairs, Housing and Urban Development (VA-HUD) and Independent Agencies, called this morning's hearing to assess the magnitude of the adverse consequences of the President's veto of the fiscal year 1996 appropriations bill on the Department of Housing and Urban Development. The goal of this hearing is not merely to determine the extent of the disaster to HUD, Bond is focusing on ways to avoid aggravating the current crisis in housing programs and, ultimately, to pursue a solution to the devastating situation. The spending measure vetoed by the President contained many significant reforms of HUD programs crafted by Bond to address the crisis in housing.

The following is the complete text of Bond's opening statement:

On December 18, President Clinton vetoed the VA-HUD and Independent Agencies Appropriations Bill for fiscal year 1996. While very unfortunate, it was no surprise. The White House consistently had been threatening a veto unless we spent substantially more than what was permitted under our budget allocation, and consistently refused to negotiate any compromise on their demands. The only movement was the increase in the amount of additional spending demanded by the White House. In December, the President insisted on \$1.9 billion more. After the veto, the White House wish-list grew by 30 percent to \$2.5 billion!

Before the veto, I proposed that we were prepared to shift up to a billion dollars within our budget allocation to priorities of the Administration, including more for the Environmental Protection Agency (EPA), the National Service program and for HUD housing programs. This compromise was rejected by the White House and, as I said before, after the veto it was answered by an increase in their demands.

This is more than simple intransigence. This is a deliberate effort to avoid agreement. I will not question the political judgment of the White House, but we must address the adverse consequences of this impasse. This hearing is not intended merely to delineate the magnitude of this disaster, our real goal is to find a way to resolve this crisis.

I appreciate Secretary Cisneros' willingness to join us this morning. This afternoon we plan to continue these hearings with Carol Browner, Administrator of the EPA, to discuss the impact of the budget impasse on her agency. I suspect the Secretary and Ms. Browner, and perhaps other members of the Committee, may have a slightly different perspective on who is to blame for the budget impasse. But, I also know that the Secretary shares our concern over the urgency to pass his Department's budget and to enact long overdue program reforms.

Over a year ago, we held a series of special hearings on the management and budgetary crisis at HUD. We examined glaring deficiencies in a number of critical housing assistance programs. And, we began the development of program and management reform measures which resulted in the enactment of the Emergency Supplemental and Rescission Act of 1995. That bill, which I might note was finally enacted after an initial veto, began the process of eliminating unsustainable housing commitments and reducing burdensome over-regulation. It was to be followed by more comprehensive legislation.

Unfortunately, the authorization bill was delayed, so the fiscal year 1996 appropriations bill included both funding and legislation to expedite the initiation of reforms necessary to preserve affordable housing in the face of the growing severity of our budgetary constraints. That bill included waiver of the one-for-one replacement rule to facilitate the demolition of failed public housing developments which are blights in their communities. We also recommended rent reforms, repeal of counter-productive tenant selection rules, increased local administrative flexibility, accelerated modernization of public housing, elimination of the endless lease rule and a host of other reforms to make more efficient and effective use of limited Federal subsidy funding. In addition to these program reforms, the Congress approved provisions in the appropriations bill which addressed the impending loss of tens of thousands of affordable housing units through owner prepayment of subsidized mortgages, proposed demonstration programs for public housing flexibility and extension of expiring multifamily housing contracts.

Frankly, I was pleased and quite proud of what we were able to accomplish in this appropriations bill, especially as it relates to the Department of Housing and Urban Development. In the face of our budgetary constraints, and the sentiment of a number of my colleagues that the Department should be abolished, it was pleasantly surprising to arrive at a conference agreement with the House which sustained so many of our initiatives to improve and restore needed housing and community development activities.

Of course, it is the nature of compromise that not all of our objectives were satisfied fully, and I know that the Secretary is prepared to delineate a number of the Administration's concerns. But that is not the focus of this hearing. I hope we will direct our attention to the disruptive and dangerous situation in which we now find ourselves: one which achieves none of our shared reform goals and fails to provide a full year budget for the Department and its many responsibilities. More importantly, this hearing is intended to provide some insight as to how we get beyond the current budget impasse.

This hearing is intended to focus attention on the disruption inflicted on the activities of only two of our agencies, but these very adverse consequences are occurring throughout the Subcommittee's jurisdiction. For example, the National Science Foundation has lost much of the time normally used to prepare for reviews and evaluations of grant applications for scientific research grants. Small business contractors of the National Aeronautics and Space Administration and other federal agencies have been threatened with bankruptcy due to delays in payments from the government, even when the products and services they provide are essential to health, safety and preservation of property. Thousands of employees and their families are being subjected to the uncertainty and anxiety of whether they will receive a needed paycheck or have been laid off without any hope of pay solely because of a lapse in governmental funding. Even after we put these disruptive consequences behind us finally by enacting these necessary appropriations bills, we will have to pay enormous late payment penalties due contractors and vendors. None of this would have happened, of course, had the bill initially passed by Congress and sent to the President been signed.

#### STATEMENT OF BARBARA MIKULSKI

Senator BOND. With that, it is a pleasure now to turn to my ranking member, Senator Mikulski.

Senator MIKULSKI. Thank you very much, Mr. Chairman. I am glad that you have called this hearing. This has been quite a year. When you took over the mantle of the chairmanship, neither you nor I thought we would arrive at this point today.

With your chairmanship and the Republican leadership in charge, I hoped we would work cooperatively together to change our ally and to work for constructive purposes.

You have had quite a year. You were on the Budget Committee, you are on the Housing and Banking Whitewater Committee, and you chaired VA-HUD. That is either three committees or three strikes. I do not know.

Senator BOND. Small Business and EPW, too.

Senator MIKULSKI. I know this has been 1 year in which you have sought to have—where you could be chairman and be in charge, and I hope you have had a good time.

Senator BOND. It has been a blast, Senator Mikulski, but I will say here once again what I have said on the floor and in speeches around the State, no one in a position of the Chair of a committee could ask for a finer, more cooperative ranking member.

There have been a lot of things that may not have been too thrilling this year, but I could not ask for greater cooperation and assistance than you have provided, and of all of the bad things that have happened to me this year, having you to work with has been one of the very good things.

Senator MIKULSKI. Well, thank you, Mr. Chairman.

As we go ahead with this hearing, I am very glad that you called it. As you know, President Clinton vetoed the bill for very specific reasons, and I would like to have unanimous consent to put his veto message in the record as part of this hearing.

Senator BOND. Without objection.

[The information follows:]

**VETO OF H.R. 2099**

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING HIS VETO OF H.R. 2099, A BILL MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND FOR SUNDRY INDEPENDENT AGENCIES, BOARDS, COMMISSIONS, CORPORATIONS, AND OFFICES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1996, AND FOR OTHER PURPOSES

*To the House of Representatives:*

I am returning herewith without my approval H.R. 2099, the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996."

H.R. 2099 would threaten public health and the environment, end programs that are helping communities help themselves, close the door on college for thousands of young people, and leave veterans seeking medical care with fewer treatment options.

The bill includes no funds for the highly successful National Service program. If such funding were eliminated, the bill would cost nearly 50,000 young Americans the opportunity to help their community, through AmeriCorps, to address vital local needs such as health care, crime prevention, and education while earning a monetary award to help them pursue additional education or training. I will not sign any version of this appropriations bill that does not restore funds for this vital program.

This bill includes a 22 percent cut in requested funding for the Environmental Protection Agency [EPA], including a 25 percent cut in enforcement that would cripple EPA efforts to enforce laws against polluters. Particularly objectionable are the bill's 25 percent cut in Superfund, which would continue to expose hundreds of thousands of citizens to dangerous chemicals and cuts, which would hamper efforts to train workers in hazardous waste cleanup.

In addition to severe funding cuts for EPA, the bill also includes legislative riders that were tacked onto the bill without any hearings or adequate public input, including one that would prevent EPA from exercising its authority under the Clean Water Act to prevent wetlands losses.

I am concerned about the bill's \$762 million reduction to my request for funds that would go directly to States and needy cities for clean water and drinking water needs, such as assistance to clean up Boston Harbor. I also object to cuts the Congress has made in environmental technology, the climate change action plan, and other environmental programs.

The bill would reduce funding for the Council for Environmental Quality by more than half. Such a reduction would severely hamper the Council's ability to provide me with advice on environmental policy and carry out its responsibilities under the National Environmental Policy Act.

The bill provides no new funding for the Community Development Financial Institutions program, an important initiative for bringing credit and growth to communities long left behind.

While the bill provides spending authority for several important initiatives of the Department of Housing and Urban Development [HUD], including Community Development Block Grants, homeless assistance and the sale of HUD-owned properties, it lacks funding for others. For example, the bill provides no funds to support economic development initiatives; it has insufficient funds for incremental rental vouchers; and it cuts nearly in half my request for tearing down the most severely distressed housing projects. Also, the bill contains harmful riders that would transfer HUD's Fair Housing activities to the Justice Department and eliminate Federal preferences in the section 8, tenant-based program.

The bill provides less than I requested for the medical care of this Nation's veterans. It includes significant restrictions on funding for the Secretary of Veterans Affairs that appear designed to impede him from carrying out his duties as an advocate for veterans. Further, the bill does not provide necessary funding for VA hospital construction.

For these reasons and others my Administration has conveyed to the Congress in earlier communications, I cannot accept this bill. This bill does not reflect the values that Americans hold dear. I urge the Congress to send me an appropriations bill for these important priorities that truly serves the American people.

WILLIAM J. CLINTON.

THE WHITE HOUSE, December 18, 1995.

ONE HUNDRED FOURTH CONGRESS OF THE UNITED STATES OF AMERICA  
 AT THE FIRST SESSION

*Begun and held at the City of Washington on Wednesday, the fourth day of January, one thousand nine hundred and ninety-five*

AN ACT

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198); \$17,649,972,000, to remain available until expended: *Provided*, That not to exceed \$25,180,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992 (38 U.S.C. chapter 55): *Provided further*, That \$12,000,000 previously transferred from "Compensation and pensions" to "Medical facilities revolving fund" shall be transferred to this heading.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), \$1,345,300,000, to remain available until expended: *Provided*, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), \$24,890,000, to remain available until expended.

**GUARANTY AND INDEMNITY PROGRAM ACCOUNT**

**(INCLUDING TRANSFER OF FUNDS)**

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$65,226,000, which may be transferred to and merged with the appropriation for "General operating expenses".

**LOAN GUARANTY PROGRAM ACCOUNT**

**(INCLUDING TRANSFER OF FUNDS)**

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$52,138,000, which may be transferred to and merged with the appropriation for "General operating expenses".

**DIRECT LOAN PROGRAM ACCOUNT**

**(INCLUDING TRANSFER OF FUNDS)**

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That during 1996, within the resources available, not to exceed \$300,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, \$459,000, which may be transferred to and merged with the appropriation for "General operating expenses".

**EDUCATION LOAN FUND PROGRAM ACCOUNT**

**(INCLUDING TRANSFER OF FUNDS)**

For the cost of direct loans, \$1,000, as authorized by 38 U.S.C. 3698, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$4,000.

In addition, for administrative expenses necessary to carry out the direct loan program, \$195,000, which may be transferred to and merged with the appropriation for "General operating expenses".

**VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT**

**(INCLUDING TRANSFER OF FUNDS)**

For the cost of direct loans, \$54,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$1,964,000.

In addition, for administrative expenses necessary to carry out the direct loan program, \$377,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT  
 (INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as amended, \$205,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed \$8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); \$16,564,000,000, plus reimbursements: *Provided*, That of the funds made available under this heading, \$789,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1996, and shall remain available for obligation until September 30, 1997.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1997, \$257,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; \$63,602,000, plus reimbursements.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$7,000, as authorized by Public Law 102-54, section 8, which shall be transferred from the "General post fund": *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$70,000. In addition, for administrative expenses to carry out the direct loan program, \$54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102-54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed \$25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration

for security guard services, and the Department of Defense for the cost of overseas employee mail; \$848,143,000: *Provided*, That of the amount appropriated and any other funds made available from any other source for activities funded under this heading, except reimbursements, not to exceed \$214,109,000 shall be available for General Administration; including not to exceed (1) \$2,450,000 for personnel compensation and benefits and \$50,000 for travel in the Office of the Secretary, (2) \$4,392,000 for personnel compensation and benefits and \$75,000 for travel in the Office of the Assistant Secretary for Policy and Planning, (3) \$1,980,000 for personnel compensation and benefits and \$33,000 for travel in the Office of the Assistant Secretary for Congressional Affairs, and (4) \$3,500,000 for personnel compensation and benefits and \$100,000 for travel in the Office of Assistant Secretary for Public and Intergovernmental Affairs: *Provided further*, That during fiscal year 1996, notwithstanding any other provision of law, the number of individuals employed by the Department of Veterans Affairs (1) in other than "career appointee" positions in the Senior Executive Service shall not exceed 6, and (2) in schedule C positions shall not exceed 11: *Provided further*, That not to exceed \$6,000,000 of the amount appropriated shall be available for administrative expenses to carry out the direct and guaranteed loan programs under the Loan Guaranty Program Account: *Provided further*, That funds under this heading shall be available to administer the Service Members Occupational Conversion and Training Act: *Provided further*, That the \$25,500,000 earmarked in Public Law 103-327 for the acquisition of automated data processing equipment and services to support the modernization program of the Veterans Benefits Administration is available for any expense authorized to be funded under this heading: *Provided further*, That none of the funds under this heading (including funds referred to in the preceding proviso) may be obligated or expended for the acquisition of automated data processing equipment and services for Department of Veterans Affairs regional offices to support Stage III of the automated data equipment modernization program of the Veterans Benefits Administration.

#### NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, \$72,604,000.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$30,900,000.

#### CONSTRUCTION, MAJOR PROJECTS

##### (INCLUDING TRANSFER OF FUNDS)

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is \$3,000,000 or more or where funds for a project were made available in a previous major project appropriation, \$136,155,000, to remain available until expended: *Provided*, That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 1996, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1996, and (2) by the awarding of a construction contract by September 30, 1997: *Provided further*, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was ap-

proved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further*, That of the funds made available under this heading in Public Law 103-327, \$7,000,000 shall be transferred to the "Parking revolving fund".

#### CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than \$3,000,000, \$190,000,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than \$3,000,000: *Provided*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

#### PARKING REVOLVING FUND

For the parking revolving fund as authorized by law (38 U.S.C. 8109), income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

#### GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131-8137), \$47,397,000, to remain available until expended.

#### GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), \$1,000,000, to remain available until September 30, 1998.

#### ADMINISTRATIVE PROVISIONS

##### (INCLUDING TRANSFER OF FUNDS)

SEC. 101. Any appropriation for 1996 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

SEC. 102. Appropriations available to the Department of Veterans Affairs for 1996 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 103. No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects", and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 104. No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 1996 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1995.

SEC. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1996 shall be available to pay prior year obligations of corresponding

prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

SEC. 107. Chapter 19 of title 38, United States Code, is amended as follows:

(1) Section 1920 is amended—

(A) in subsection (a), by inserting ", and for the reimbursement of administrative costs under subsection (c)" before the period at the end of the second sentence; and

(B) by adding at the end the following new subsection:

"(c)(1) For each fiscal year for which this subsection is in effect, the Secretary shall, from the National Service Life Insurance Fund, reimburse the 'General operating expenses' account of the Department for the amount of administrative costs determined under paragraph (2) for that fiscal year. Such reimbursement shall be made from any surplus earnings for that fiscal year that are available for dividends on such insurance after claims have been paid and actuarially determined reserves have been set aside. However, if the amount of such administrative costs exceeds the amount of such surplus earnings, such reimbursement shall be made only to the extent of such surplus earnings.

"(2) The Secretary shall determine the administrative costs to the Department for a fiscal year for which this subsection is in effect which, in the judgment of the Secretary, are properly allocable to the provision of National Service Life Insurance (and to the provision of any total disability income insurance added to the provision of such insurance).

"(3) This subsection shall be in effect only with respect to fiscal year 1996."

(2) Section 1923 is amended—

(A) in subsection (a), by inserting ", and for the reimbursement of administrative costs under subsection (d)" before the period at the end of the last sentence; and

(B) by adding at the end the following new subsection:

"(d)(1) For each fiscal year for which this subsection is in effect, the Secretary shall, from the Veterans' Special Life Insurance Fund, reimburse the 'General operating expenses' account of the Department for the amount of administrative costs determined under paragraph (2) for that fiscal year. Such reimbursement shall be made from any surplus earnings for that fiscal year that are available for dividends on such insurance after claims have been paid and actuarially determined reserves have been set aside. However, if the amount of such administrative costs exceeds the amount of such surplus earnings, such reimbursement shall be made only to the extent of such surplus earnings.

"(2) The Secretary shall determine the administrative costs to the Department for a fiscal year for which this subsection is in effect which, in the judgment of the Secretary, are properly allocable to the provision of Veterans' Special Life Insurance (and to the provision of any total disability income insurance added to the provision of such insurance).

"(3) This subsection shall be in effect only with respect to fiscal year 1996."

(3) Section 1955 is amended—

(A) in subsection (a), by inserting ", and for the reimbursement of administrative costs under subsection (c)" before the period at the end of the first sentence; and

(B) by adding at the end the following new subsection:

"(c)(1) For each fiscal year for which this subsection is in effect, the Secretary shall, from the United States Government Life Insurance Fund, reimburse the 'General operating expenses' account of the Department for the amount of administrative costs determined under paragraph (2) for that fiscal year. Such reimbursement shall be made from any surplus earnings for that fiscal year that are available for dividends on such insurance after claims have been paid and actuarially determined reserves have been set aside. However, if the amount of such administrative costs exceeds the amount of such surplus earnings, such reimbursement shall be made only to the extent of such surplus earnings.

"(2) The Secretary shall determine the administrative costs to the Department for a fiscal year for which this subsection is in effect which, in the judgment of the Secretary, are properly allocable to the provision of United States Government Life Insurance (and to the provision of any total disability income insurance added to the provision of such insurance).

"(3) This subsection shall be in effect only with respect to fiscal year 1996."

(4) Section 1982 is amended by striking out "The United States" and inserting in lieu thereof "Except as provided in sections 1920(c), 1923(d), and 1955(c) of this title, the United States".

SEC. 108. Notwithstanding any other provision of law, the Secretary of Veterans Affairs is authorized to transfer, without compensation or reimbursement, the jurisdiction and control of a parcel of land consisting of approximately 6.3 acres, located on the south edge of the Department of Veterans Affairs Medical and Regional Office Center, Wichita, Kansas, including buildings Nos. 8 and 30 and other improvements thereon, to the Secretary of Transportation for the purpose of expanding and modernizing United States Highway 54: *Provided*, That if necessary, the exact acreage and legal description of the real property transferred shall be determined by a survey satisfactory to the Secretary of Veterans Affairs and the Secretary of Transportation shall bear the cost of such survey: *Provided further*, That the Secretary of Transportation shall be responsible for all costs associated with the transferred land and improvements thereon, and compliance with all existing statutes and regulations: *Provided further*, That the Secretary of Veterans Affairs and the Secretary of Transportation may require such additional terms and conditions as each Secretary considers appropriate to effectuate this transfer of land.

SEC. 109. During fiscal year 1996, not to exceed \$4,500,000 may be transferred from "Medical care" to "Medical administration and miscellaneous operating expenses". No transfer may occur until 20 days after the Secretary of Veterans Affairs provides written notice to the House and Senate Committees on Appropriations.

## TITLE II

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### HOUSING PROGRAMS

##### ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, \$10,155,795,000, to remain available until expended: *Provided*, That of the total amount provided under this head, \$160,000,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb): *Provided further*, That of the total amount provided under this head, \$2,500,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including up to \$20,000,000 for the inspection of public housing units, contract expertise, and training and technical assistance, directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public and Indian housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the Department and of public housing agencies and to residents in connection with the public and Indian housing program: *Provided further*, That of the total amount provided under this head, \$400,000,000 shall be for rental subsidy contracts under the section 8 existing housing certificate program and the housing voucher program under section 8 of the Act, except that such amounts shall be used only for units necessary to provide housing assistance for residents to be relocated from existing federally subsidized or assisted housing, for replacement housing for units demolished or disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements, for the conversion of section 23 projects to assistance under section 8, for public housing agencies to implement allocation plans approved by the Secretary for designated housing, for funds to carry out the family unification program, and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: *Provided further*, That of the total amount provided under this head, \$4,350,862,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts, such amounts shall be merged with all remaining obligated and unobligated balances heretofore appropriated under the heading "Renewal of expiring section 8 subsidy contracts": *Provided further*, That notwithstanding any other provision of law, assistance reserved under the two preceding provisos may be used in connection with any provision of Federal law enacted in this Act or after the enactment of this Act that authorizes the use of rental assistance amounts in connection with such terminated or expired contracts: *Provided further*, That the Secretary may determine not

to apply section 8(o)(6)(B) of the Act to housing vouchers during fiscal year 1996: *Provided further*, That of the total amount provided under this head, \$610,575,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended; and \$261,000,000 shall be for section 8 assistance and rehabilitation grants for property disposition: *Provided further*, That during fiscal year 1996, the Secretary of Housing and Urban Development may manage and dispose of multifamily properties owned by the Secretary, including the provision for grants from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation and other related development costs and multifamily mortgages held by the Secretary without regard to any other provision of law: *Provided further*, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: *Provided further*, That of the total amount provided under this head, \$171,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act; and \$65,000,000 shall be for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992: *Provided further*, That the Secretary may make up to \$5,000,000 of any amount recaptured in this account available for the development of performance and financial systems.

Of the total amount provided under this head, \$624,000,000, plus amounts recaptured from interest reduction payment contracts for section 236 projects whose owners prepay their mortgages during fiscal year 1996 (which amounts shall be transferred and merged with this account), shall be for use in conjunction with properties that are eligible for assistance under the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA): *Provided*, That prior to July 1, 1996, funding to carry out plans of action shall be limited to sales of projects to non-profit organizations, tenant-sponsored organizations, and other priority purchasers: *Provided further*, That of the amount made available by this paragraph, up to \$10,000,000 shall be available for preservation technical assistance grants pursuant to section 253 of the Housing and Community Development Act of 1987, as amended: *Provided further*, That with respect to amounts made available by this paragraph, after July 1, 1996, if the Secretary determines that the demand for funding may exceed amounts available for such funding, the Secretary (1) may determine priorities for distributing available funds, including giving priority funding to tenants displaced due to mortgage prepayment and to projects that have not yet been funded but which have approved plans of action; and (2) may impose a temporary moratorium on applications by potential recipients of such funding: *Provided further*, That an owner of eligible low-income housing may prepay the mortgage or request voluntary termination of a mortgage insurance contract, so long as said owner agrees not to raise rents for sixty days after such prepayment: *Provided further*, That an owner of eligible low-income housing who has not timely filed a second notice under section 216(d) prior to the effective date of this Act may file such notice by March 1, 1996: *Provided further*, That such developments have been determined to have preservation equity at least equal to the lesser of \$5,000 per unit or \$500,000 per project or the equivalent of eight times the most recently published fair market rent for the area in which the project is located as the appropriate unit size for all of the units in the eligible project: *Provided further*, That the Secretary may modify the regulatory agreement to permit owners and priority purchasers to retain rental income in excess of the basic rental charge in projects assisted under section 236 of the National Housing Act, for the purpose of preserving the low and moderate income character of the housing: *Provided further*, That the Secretary may give priority to funding and processing the following projects provided that the funding is obligated not later than August 1, 1996: (1) projects with approved plans of action to retain the housing that file a modified plan of action no later than July 1, 1996 to transfer the housing; (2) projects with approved plans of action that are subject to a repayment or settlement agreement that was executed between the owner and the Secretary prior to September 1, 1995; (3) projects for which submissions were delayed as a result of their location in areas that were designated as a

Federal disaster area in a Presidential Disaster Declaration; and (4) projects whose processing was, in fact or in practical effect, suspended, deferred, or interrupted for a period of twelve months or more because of differing interpretations, by the Secretary and an owner or by the Secretary and a State or local rent regulatory agency, concerning the timing of filing eligibility or the effect of a presumptively applicable State or local rent control law or regulation on the determination of preservation value under section 213 of LIHPRHA, as amended, if the owner of such project filed notice of intent to extend the low-income affordability restrictions of the housing, or transfer to a qualified purchaser who would extend such restrictions, on or before November 1, 1993: *Provided further*, That eligible low-income housing shall include properties meeting the requirements of this paragraph with mortgages that are held by a State agency as a result of a sale by the Secretary without insurance, which immediately before the sale would have been eligible low-income housing under LIHPRHA: *Provided further*, That notwithstanding any other provision of law, subject to the availability of appropriated funds, each unassisted low-income family residing in the housing on the date of prepayment or voluntary termination, and whose rent, as a result of a rent increase occurring no later than one year after the date of the prepayment, exceeds 30 percent of adjusted income, shall be offered tenant-based assistance in accordance with section 8 or any successor program, under which the family shall pay no less for rent than it paid on such date: *Provided further*, That any family receiving tenant-based assistance under the preceding proviso may elect (1) to remain in the unit of the housing and if the rent exceeds the fair market rent or payment standard, as applicable, the rent shall be deemed to be the applicable standard, so long as the administering public housing agency finds that the rent is reasonable in comparison with rents charged for comparable unassisted housing units in the market or (2) to move from the housing and the rent will be subject to the fair market rent of the payment standard, as applicable, under existing program rules and procedures: *Provided further*, That up to \$10,000,000 of the amount made available by this paragraph may be used at the discretion of the Secretary to reimburse owners of eligible properties for which plans of action were submitted prior to the effective date of this Act, but were not executed for lack of available funds, with such reimbursement available only for documented costs directly applicable to the preparation of the plan of action as determined by the Secretary, and shall be made available on terms and conditions to be established by the Secretary: *Provided further*, That, notwithstanding any other provision of law, effective October 1, 1996, the Secretary shall suspend further processing of preservation applications which do not have approved plans of action.

Of the total amount provided under this head, \$780,190,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959; and \$233,168,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act: *Provided*, That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of the Cranston-Gonzalez National Affordable Housing Act for tenant-based assistance, as authorized under that section, which assistance is five-years in duration: *Provided further*, That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate.

#### PUBLIC HOUSING DEMOLITION, SITE REVITALIZATION, AND REPLACEMENT HOUSING GRANTS

For grants to public housing agencies for the purposes of enabling the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937 for the purpose of providing replacement housing

and assisting tenants to be displaced by the demolition, \$280,000,000, to remain available until expended: *Provided*, That the Secretary of Housing and Urban Development shall award such funds to public housing agencies by a competition which includes among other relevant criteria the local and national impact of the proposed demolition and revitalization activities and the extent to which the public housing agency could undertake such activities without the additional assistance to be provided hereunder: *Provided further*, That eligible expenditures hereunder shall be those expenditures eligible under section 8 and section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437f and l): *Provided further*, That the Secretary may impose such conditions and requirements as the Secretary deems appropriate to effectuate the purposes of this paragraph: *Provided further*, That the Secretary may require an agency selected to receive funding to make arrangements satisfactory to the Secretary for use of an entity other than the agency to carry out this program where the Secretary determines that such action will help to effectuate the purpose of this paragraph: *Provided further*, That in the event an agency selected to receive funding does not proceed expeditiously as determined by the Secretary, the Secretary shall withdraw any funding made available pursuant to this paragraph that has not been obligated by the agency and distribute such funds to one or more other eligible agencies, or to other entities capable of proceeding expeditiously in the same locality with the original program: *Provided further*, That of the foregoing \$280,000,000, the Secretary may use up to .67 per centum for technical assistance, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: *Provided further*, That any replacement housing provided with assistance under this head shall be subject to section 18(f) of the United States Housing Act of 1937, as amended by section 201(b)(2) of this Act.

#### FLEXIBLE SUBSIDY FUND

##### (INCLUDING TRANSFER OF FUNDS)

From the fund established by section 236(g) of the National Housing Act, as amended, all uncommitted balances of excess rental charges as of September 30, 1995, and any collections during fiscal year 1996 shall be transferred, as authorized under such section, to the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended.

#### RENTAL HOUSING ASSISTANCE

##### (RESCISSON)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1996 by not more than \$2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: *Provided*, That up to \$163,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall be rescinded in fiscal year 1996.

#### PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), \$2,800,000,000.

#### DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public and Indian housing agencies for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901-11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921-11925, \$290,000,000, to remain available until expended, of which \$10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training) and of which \$2,500,000 shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home program administered by the Inspector General of the Department of Housing and Urban Development: *Provided*,

That the term "drug-related crime", as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary.

## **HOME INVESTMENT PARTNERSHIPS PROGRAM**

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), as amended, \$1,400,000,000, to remain available until expended.

## INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, \$3,000,000, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739): *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$36,900,000.

## **HOMELESS ASSISTANCE**

## **HOMELESS ASSISTANCE GRANTS**

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and the shelter plus care program (as authorized under subtitle F of title IV of such Act), \$823,000,000, to remain available until expended.

## COMMUNITY PLANNING AND DEVELOPMENT

## **COMMUNITY DEVELOPMENT GRANTS**

**(INCLUDING TRANSFER OF FUNDS)**

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), \$4,600,000,000, to remain available until September 30, 1998: *Provided*, That \$50,000,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), \$2,000,000 shall be available as a grant to the Housing Assistance Council, \$1,000,000 shall be available as a grant to the National American Indian Housing Council, and \$27,000,000 shall be available for "special purpose grants" pursuant to section 107 of such Act: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant made available under the preceding proviso to the Housing Assistance Council or the National American Indian Housing Council, or a grant using funds under section 107(b)(3) of the Housing and Community Development Act of 1974) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That section 105(a)(25) of such Act, as added by section 907(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, shall continue to be effective after September 30, 1995, notwithstanding section 907(b)(2) of such Act: *Provided further*, That section 916 of the Cranston-Gonzalez National Affordable Housing Act shall apply with respect to fiscal year 1996, notwithstanding section 916(f) of that Act.

Of the amount provided under this heading, the Secretary of Housing and Urban Development may use up to \$53,000,000 for grants to public housing agencies (including Indian housing authorities), nonprofit corporations, and other appropriate entities for a supportive services program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals to become self-sufficient: *Provided*, That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of the household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job training or educational programs: *Pro-*

*vided further,* That the supportive services shall include congregate services for the elderly and disabled, service coordinators, and coordinated educational, training, and other supportive services, including academic skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, transportation, and child care: *Provided further,* That the Secretary shall require applicants to demonstrate firm commitments of funding or services from other sources: *Provided further,* That the Secretary shall select public and Indian housing agencies to receive assistance under this head on a competitive basis, taking into account the quality of the proposed program (including any innovative approaches), the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent to which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary.

Of the amount made available under this heading, notwithstanding any other provision of law, \$12,000,000 shall be available for contracts, grants, and other assistance, other than loans, not otherwise provided for, for providing counseling and advice to tenants and homeowners both current and prospective, with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, notwithstanding section 106(c)(9) and section 106(d)(13) of such Act.

Of the amount made available under this heading, notwithstanding any other provision of law, \$15,000,000 shall be available for the tenant opportunity program.

Of the amount made available under this heading, notwithstanding any other provision of law, \$20,000,000 shall be available for youthbuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading.

For the cost of guaranteed loans, \$31,750,000, as authorized by section 108 of the Housing and Community Development Act of 1974: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$1,500,000,000: *Provided further,* That the Secretary of Housing and Urban Development may make guarantees not to exceed the immediately foregoing amount notwithstanding the aggregate limitation on guarantees set forth in section 108(k) of the Housing and Community Development Act of 1974. In addition, for administrative expenses to carry out the guaranteed loan program, \$675,000 which shall be transferred to and merged with the appropriation for departmental salaries and expenses.

The amount made available for fiscal year 1995 for a special purpose grant for the renovation of the central terminal in Buffalo, New York, shall be made available for the central terminal and for other public facilities in Buffalo, New York.

#### POLICY DEVELOPMENT AND RESEARCH

##### RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, \$34,000,000, to remain available until September 30, 1997.

#### FAIR HOUSING AND EQUAL OPPORTUNITY

##### FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and for contracts with qualified fair housing enforcement organizations, as authorized by section 561 of the Housing and Community Development Act of 1987, as amended by the Housing and Community Development Act of 1992, \$30,000,000, to remain available until September 30, 1997.

## MANAGEMENT AND ADMINISTRATION

### SALARIES AND EXPENSES

#### (INCLUDING TRANSFERS OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed \$7,000 for official reception and representation expenses, \$962,558,000, of which \$532,782,000 shall be provided from the various funds of the Federal Housing Administration, and \$9,101,000 shall be provided from funds of the Government National Mortgage Association, and \$675,000 shall be provided from the Community Development Grants Program account.

### OFFICE OF INSPECTOR GENERAL

#### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$47,850,000, of which \$11,283,000 shall be transferred from the various funds of the Federal Housing Administration.

### OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

### SALARIES AND EXPENSES

#### (INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, \$14,895,000, to remain available until expended, from the Federal Housing Enterprise Oversight Fund: *Provided*, That such amounts shall be collected by the Director as authorized by section 1316 (a) and (b) of such Act, and deposited in the Fund under section 1316(f) of such Act.

### FEDERAL HOUSING ADMINISTRATION

#### FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

#### (INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1996, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of \$110,000,000,000: *Provided*, That during fiscal year 1996, the Secretary shall sell assigned mortgage notes having an unpaid principal balance of up to \$4,000,000,000, which notes were originally insured under section 203(b) of the National Housing Act: *Provided further*, That the Secretary may use any negative subsidy amounts from the sale of such assigned mortgage notes during fiscal year 1996 for the disposition of properties or notes under this heading.

During fiscal year 1996, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed \$200,000,000: *Provided*, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under section 203 of such Act.

For administrative expenses necessary to carry out the guaranteed and direct loan program, \$341,595,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed \$334,483,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which not to exceed \$7,112,000 shall be transferred to the appropriation for the Office of Inspector General.

#### FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

#### (INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z-3 and 1735c), including the cost of modifying such loans, \$85,000,000, to remain available until expended: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed \$17,400,000,000: *Provided further*, That during fiscal year 1996, the Secretary shall

sell assigned notes having an unpaid principal balance of up to \$4,000,000,000, which notes were originally obligations of the funds established under sections 238 and 519 of the National Housing Act: *Provided further*, That the Secretary may use any negative subsidy amounts from the sale of such assigned mortgage notes during fiscal year 1996, in addition to amounts otherwise provided, for the disposition of properties or notes under this heading (including the credit subsidy for the guarantee of loans or the reduction of positive credit subsidy amounts that would otherwise be required for the sale of such properties or notes), and for any other purpose under this heading: *Provided further*, That any amounts made available in any prior appropriation Act for the cost (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans that are obligations of the funds established under section 238 or 519 of the National Housing Act that have not been obligated or that are deobligated shall be available to the Secretary of Housing and Urban Development in connection with the making of such guarantees and shall remain available until expended, notwithstanding the expiration of any period of availability otherwise applicable to such amounts.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238(a), and 519(a) of the National Housing Act, shall not exceed \$120,000,000; of which not to exceed \$100,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed \$20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, \$202,470,000, of which \$198,299,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which \$4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

#### GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

##### GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

##### (INCLUDES TRANSFER OF FUNDS)

During fiscal year 1996, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed \$110,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, \$9,101,000, to be derived from the GNMA—guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed \$9,101,000 shall be transferred to the appropriation for departmental salaries and expenses.

#### ADMINISTRATIVE PROVISIONS

##### (INCLUDING TRANSFER OF FUNDS)

#### EXTEND ADMINISTRATIVE PROVISIONS FROM THE RESCISSION ACT

##### **SEC. 201. (a) PUBLIC AND INDIAN HOUSING MODERNIZATION.—**

(1) EXPANSION OF USE OF MODERNIZATION FUNDING.—Subsection 14(q) of the United States Housing Act of 1937 is amended to read as follows:

“(q)(1) In addition to the purposes enumerated in subsections (a) and (b), a public housing agency may use modernization assistance provided under section 14, and development assistance provided under section 5(a) that was not allocated, as determined by the Secretary, for priority replacement housing, for any eligible activity authorized by this section, by section 5, or by applicable Appropriations Acts for a public housing agency, including the demolition, rehabilitation, revitalization, and replacement of existing units and projects and, for up to 10 percent of its allocation of such funds in any fiscal year, for any operating subsidy purpose authorized in section 9. Except for assistance used for operating subsidy purposes under the preceding sentence, assistance provided to a public housing agency under this section shall principally be used for the physical improvement or replacement of public housing and for associated management improvements, except as otherwise approved by the Secretary. Public housing units assisted under this paragraph shall be eligible for operating subsidies, unless the Secretary determines that such units or projects have not received sufficient assistance under this Act or do not meet other requirements of this Act.”

"(2) A public housing agency may provide assistance to developments that include units for other than very low-income families ('mixed income developments'), in the form of a grant, loan, operating assistance, or other form of investment which may be made to—

"(A) a partnership, a limited liability company, or other legal entity in which the public housing agency or its affiliate is a general partner, managing member, or otherwise participates in the activities of such entity; or

"(B) any entity which grants to the public housing agency the option to purchase the development within 20 years after initial occupancy in accordance with section 42(i)(7) of the Internal Revenue Code of 1986, as amended. Units shall be made available in such developments for periods of not less than 20 years, by master contract or by individual lease, for occupancy by low-income families referred from time to time by the public housing agency. The number of such units shall be:

"(i) in the same proportion to the total number of units in such development that the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the development, or

"(ii) not be less than the number of units that could have been developed under the conventional public housing program with the assistance involved, or

"(iii) as may otherwise be approved by the Secretary.

"(3) A mixed income development may elect to have all units subject only to the applicable local real estate taxes, notwithstanding that the low-income units assisted by public housing funds would otherwise be subject to section 6(d) of the Housing Act of 1937.

"(4) If an entity that owns or operates a mixed-income project under this subsection enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9, or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units, to the maximum extent practicable.".

(2) **APPLICABILITY.**—Section 14(q) of the United States Housing Act of 1937, as amended by subsection (a) of this section, shall be effective only with respect to assistance provided from funds made available for fiscal year 1996 or any preceding fiscal year.

(3) **APPLICABILITY TO IHAs.**—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendment made by this subsection shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(b) **ONE-FOR-ONE REPLACEMENT OF PUBLIC AND INDIAN HOUSING.**—

(1) **EXTENDED AUTHORITY.**—Section 1002(d) of Public Law 104-19 is amended to read as follows:

"(d) Subsections (a), (b), and (c) shall be effective for applications for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken, on, before, or after September 30, 1995 and before September 30, 1996."

(2) Section 18(f) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "No one may rely on the preceding sentence as the basis for reconsidering a final order of a court issued, or a settlement approved by, a court."

(3) **APPLICABILITY.**—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subsection and by sections 1002 (a), (b), and (c) of Public Law 104-19 shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

## PUBLIC AND ASSISTED HOUSING RENTS, INCOME ADJUSTMENTS, AND PREFERENCES

**SEC. 202.** (a) **MINIMUM RENTS.**—Notwithstanding sections 3(a) and 8(o)(2) of the United States Housing Act of 1937, as amended, effective for fiscal year 1996 and no later than October 30, 1995—

(1) public housing agencies shall require each family who is assisted under the certificate or moderate rehabilitation program under section 8 of such Act to pay a minimum monthly rent of not less than \$25, and may require a minimum monthly rent of up to \$50;

(2) public housing agencies shall reduce the monthly assistance payment on behalf of each family who is assisted under the voucher program under section 8 of such Act so that the family pays a minimum monthly rent of not less than \$25, and may require a minimum monthly rent of up to \$50;

(3) with respect to housing assisted under other programs for rental assistance under section 8 of such Act, the Secretary shall require each family who is assisted under such program to pay a minimum monthly rent of not less than \$25 for the unit, and may require a minimum monthly rent of up to \$50; and

(4) public housing agencies shall require each family who is assisted under the public housing program (including public housing for Indian families) of such Act to pay a minimum monthly rent of not less than \$25, and may require a minimum monthly rent of up to \$50.

(b) **ESTABLISHMENT OF CEILING RENTS.**—

(1) Section 3(a)(2) of the United States Housing Act of 1937 is amended to read as follows:

(2) Notwithstanding paragraph (1), a public housing agency may—

“(A) adopt ceiling rents that reflect the reasonable market value of the housing, but that are not less than the monthly costs—

“(i) to operate the housing of the agency; and

“(ii) to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

“(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).”

(2) **REGULATIONS.**—

(A) **IN GENERAL.**—The Secretary shall, by regulation, after notice and an opportunity for public comment, establish such requirements as may be necessary to carry out section 3(a)(2)(A) of the United States Housing Act of 1937, as amended by paragraph (1).

(B) **TRANSITION RULE.**—Prior to the issuance of final regulations under paragraph (1), a public housing agency may implement ceiling rents, which shall be not less than the monthly costs to operate the housing of the agency and—

(i) determined in accordance with section 3(a)(2)(A) of the United States Housing Act of 1937, as that section existed on the day before enactment of this Act;

(ii) equal to the 95th percentile of the rent paid for a unit of comparable size by tenants in the same public housing project or a group of comparable projects totaling 50 units or more; or

(iii) equal to the fair market rent for the area in which the unit is located.

(c) **DEFINITION OF ADJUSTED INCOME.**—Section 3(b)(5) of the United States Housing Act of 1937 is amended—

(1) at the end of subparagraph (F), by striking “and”;

(2) at the end of subparagraph (G), by striking the period and inserting “; and”; and

(3) by inserting after subparagraph (G) the following:

“(H) for public housing, any other adjustments to earned income established by the public housing agency. If a public housing agency adopts other adjustments to income pursuant to subparagraph (H), the Secretary shall not take into account any reduction of or increase in the public housing agency’s per unit dwelling rental income resulting from those adjustments when calculating the contributions under section 9 for the public housing agency for the operation of the public housing.”

(d) **REPEAL OF FEDERAL PREFERENCES.**—

(1) **PUBLIC HOUSING.**—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended to read as follows:

"(A) the establishment, after public notice and an opportunity for public comment, of a written system of preferences for admission to public housing, if any, that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;".

(2) SECTION 8 EXISTING AND MODERATE REHABILITATION.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

"(A) the selection of tenants shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that for the certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act;".

(3) SECTION 8 VOUCHER PROGRAM.—Section 8(o)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(B)) is amended to read as follows:

"(B) For the purpose of selecting families to be assisted under this subsection, the public housing agency may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act".

(4) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(A) REPEAL.—Section 545(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is amended to read as follows:

"(c) [Reserved.]".

(B) PROHIBITION.—Notwithstanding any other provision of law, no Federal tenant selection preferences under the United States Housing Act of 1937 shall apply with respect to—

(i) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 (as such section existed on the day before October 1, 1983); or

(ii) projects financed under section 202 of the Housing Act of 1959 (as such section existed on the day before the date of enactment of the Cranston-Gonzalez National Affordable Housing Act).

(5) RENT SUPPLEMENTS.—Section 101(k) of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(k)) is amended to read as follows:

"(k) [Reserved.]".

(6) CONFORMING AMENDMENTS.—

(A) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(i) in section 6(o), by striking "preference rules specified in" and inserting "written system of preferences for selection established pursuant to";

(ii) in the second sentence of section 7(a)(2), by striking "according to the preferences for occupancy under" and inserting "in accordance with the written system of preferences for selection established pursuant to";

(iii) in section 8(d)(2)(A), by striking the last sentence;

(iv) in section 8(d)(2)(H), by striking "Notwithstanding subsection (d)(1)(A)(i), an" and inserting "An";

(v) in section 16(c), in the second sentence, by striking "the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)" and inserting "the written system of preferences for selection established by the public housing agency pursuant to section 6(c)(4)(A)", and

(vi) in section 24(e)—

(I) by striking "(e) EXCEPTIONS" and all that follows through "The Secretary may" and inserting the following:

"(e) EXCEPTION TO GENERAL PROGRAM REQUIREMENTS.—The Secretary may"; and  
(II) by striking paragraph (2).

(B) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 522(f)(6)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704 et seq.) is amended by striking "any preferences for such as-

sistance under section 8(d)(1)(A)(i)" and inserting "the written system of preferences for selection established pursuant to section 8(d)(1)(A)".

(C) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking "the preferences" and all that follows up to the period at the end and inserting "any preferences".

(D) REFERENCES IN OTHER LAW.—Any reference in any Federal law other than any provision of any law amended by paragraphs (1) through (5) of this subsection to the preferences for assistance under section 6(c)(4)(A)(i), 8(d)(1)(A)(i), or 8(o)(3)(B) of the United States Housing Act of 1937 (as such sections existed on the day before the date of enactment of this Act) shall be considered to refer to the written system of preferences for selection established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(3)(B), respectively, of the United States Housing Act of 1937, as amended by this section.

(e) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by subsections (a), (b), (c), (d), and (f) of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(f) This section shall be effective upon the enactment of this Act and only for fiscal year 1996.

#### CONVERSION OF CERTAIN PUBLIC HOUSING TO VOUCHERS

SEC. 203. (a) IDENTIFICATION OF UNITS.—Each public housing agency shall identify any public housing developments—

(1) that are on the same or contiguous sites;.

(2) that total more than—

(A) 300 dwelling units; or

(B) in the case of high-rise family buildings or substantially vacant buildings; 300 dwelling units;

(3) that have a vacancy rate of at least 10 percent for dwelling units not in funded, on schedule modernization programs;

(4) identified as distressed housing that the public housing agency cannot assure the long-term viability as public housing through reasonable revitalization, density reduction, or achievement of a broader range of household income; and

(5) for which the estimated cost of continued operation and modernization of the developments as public housing exceeds the cost of providing tenant-based assistance under section 8 of the United States Housing Act of 1937 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development cost required for modernization).

(b) IMPLEMENTATION AND ENFORCEMENT.—

(1) STANDARDS FOR IMPLEMENTATION.—The Secretary shall establish standards to permit implementation of this section in fiscal year 1996.

(2) CONSULTATION.—Each public housing agency shall consult with the applicable public housing tenants and the unit of general local government in identifying any public housing developments under subsection (a).

(3) FAILURE OF PHAS TO COMPLY WITH SUBSECTION (a).—Where the Secretary determines that—

(A) a public housing agency has failed under subsection (a) to identify public housing developments for removal from the inventory of the agency in a timely manner;

(B) a public housing agency has failed to identify one or more public housing developments which the Secretary determines should have been identified under subsection (a); or

(C) one or more of the developments identified by the public housing agency pursuant to subsection (a) should not, in the determination of the Secretary, have been identified under that subsection;

the Secretary may designate the developments to be removed from the inventory of the public housing agency pursuant to this section.

(c) REMOVAL OF UNITS FROM THE INVENTORIES OF PUBLIC HOUSING AGENCIES.—

(1) Each public housing agency shall develop and carry out a plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) or subsection (b)(3), over a period of up to five years, from the inventory of the public housing agency and the annual contributions contract. The plan shall be approved by the relevant local official as not inconsis-

ent with the Comprehensive Housing Affordability Strategy under title I of the Housing and Community Development Act of 1992, including a description of any disposition and demolition plan for the public housing units.

(2) The Secretary may extend the deadline in paragraph (1) for up to an additional five years where the Secretary makes a determination that the deadline is impracticable.

(3) The Secretary shall take appropriate actions to ensure removal of developments identified under subsection (a) or subsection (b)(3) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under paragraph (1), or fails to adequately implement such plan in accordance with the terms of the plan.

(4) To the extent approved in appropriations Acts, the Secretary may establish requirements and provide funding under the Urban Revitalization Demonstration program for demolition and disposition of public housing under this section.

(5) Notwithstanding any other provision of law, if a development is removed from the inventory of a public housing agency and the annual contributions contract pursuant to paragraph (1), the Secretary may authorize or direct the transfer of—

(A) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such development pursuant to section 14 of the United States Housing Act of 1937;

(B) in the case of an agency receiving public and Indian housing modernization assistance by formula pursuant to section 14 of the United States Housing Act of 1937, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to the development removed from the inventory of that agency; and

(C) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of the development pursuant to section 5 of such Act,

to the tenant-based assistance program or appropriate site revitalization of such agency.

(6) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if, in the determination of the Secretary, a development meets or is likely to meet the criteria set forth in subsection (a), the Secretary may direct the public housing agency to cease additional spending in connection with the development, except to the extent that additional spending is necessary to ensure decent, safe, and sanitary housing until the Secretary determines or approves an appropriate course of action with respect to such development under this section.

(d) CONVERSION TO TENANT-BASED ASSISTANCE.—

(1) The Secretary shall make authority available to a public housing agency to provide tenant-based assistance pursuant to section 8 to families residing in any development that is removed from the inventory of the public housing agency and the annual contributions contract pursuant to subsection (b).

(2) Each conversion plan under subsection (c) shall—

(A) require the agency to notify families residing in the development, consistent with any guidelines issued by the Secretary governing such notifications, that the development shall be removed from the inventory of the public housing agency and the families shall receive tenant-based or project-based assistance, and to provide any necessary counseling for families; and

(B) ensure that all tenants affected by a determination under this section that a development shall be removed from the inventory of a public housing agency shall be offered tenant-based or project-based assistance and shall be relocated, as necessary, to other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice.

(e) IN GENERAL.—

(1) The Secretary may require a public housing agency to provide such information as the Secretary considers necessary for the administration of this section.

(2) As used in this section, the term “development” shall refer to a project or projects, or to portions of a project or projects, as appropriate.

(3) Section 18 of the United States Housing Act of 1937 shall not apply to the demolition of developments removed from the inventory of the public housing agency under this section.

#### STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE

**SEC. 204.** (a) "TAKE-ONE, TAKE-ALL".—Section 8(t) of the United States Housing Act of 1937 is hereby repealed.

(b) EXEMPTION FROM NOTICE REQUIREMENTS FOR THE CERTIFICATE AND VOUCHER PROGRAMS.—Section 8(c) of such Act is amended—

(1) in paragraph (8), by inserting after "section" the following: "(other than a contract for assistance under the certificate or voucher program); and

(2) in the first sentence of paragraph (9), by striking "(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o))" and inserting ", other than a contract under the certificate or voucher program".

(c) ENDLESS LEASE.—Section 8(d)(1)(B) of such Act is amended—

(1) in clause (ii), by inserting "during the term of the lease," after "(ii)"; and

(2) in clause (iii), by striking "provide that" and inserting "during the term of the lease".

(d) APPLICABILITY.—The provisions of this section shall be effective for fiscal year 1996 only.

#### SECTION 8 FAIR MARKET RENTALS, ADMINISTRATIVE FEES\*, AND DELAY IN REISSUANCE

**SEC. 205.** (a) FAIR MARKET RENTALS.—The Secretary shall establish fair market rentals for purposes of section 8(c)(1) of the United States Housing Act of 1937, as amended, that shall be effective for fiscal year 1996 and shall be based on the 40th percentile rent of rental distributions of standard quality rental housing units. In establishing such fair market rentals, the Secretary shall consider only the rents for dwelling units occupied by recent movers and may not consider the rents for public housing dwelling units or newly constructed rental dwelling units.

(b) ADMINISTRATIVE FEES.—Notwithstanding sections 8(q) (1) and (4) of the United States Housing Act of 1937, for fiscal year 1996, the fee for each month for which a dwelling unit is covered by an assistance contract under the certificate, voucher, or moderate rehabilitation program under section 8 of such Act shall be equal to the monthly fee payable for fiscal year 1995: *Provided*, That this subsection shall be applicable to all amounts made available for such fees during fiscal year 1996, as if in effect on October 1, 1995.

(c) DELAY REISSUANCE OF VOUCHERS AND CERTIFICATES.—Notwithstanding any other provision of law, a public housing agency administering certificate or voucher assistance provided under subsection (b) or (o) of section 8 of the United States Housing Act of 1937, as amended, shall delay for 3 months, the use of any amounts of such assistance (or the certificate or voucher representing assistance amounts) made available by the termination during fiscal year 1996 of such assistance on behalf of any family for any reason, but not later than October 1, 1996; with the exception of any certificates assigned or committed to project-based assistance as permitted otherwise by the Act, accomplished prior to the effective date of this Act.

#### PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION

**SEC. 206.** (a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 housing assistance payments program, administering a total number of public housing units not in excess of 25,000, may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937, mod-

ernization assistance provided under section 14 of such Act, and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937, and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

(c) APPLICATION.—An application to participate in the demonstration—

(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937;

(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937, and at least 50 percent of the families selected shall have incomes that do not exceed 30 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family income;

(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent;

(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937, and other appropriate factors as determined by the Secretary.

(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

(1) Section 18 of the United States Housing Act of 1937 shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

(2) Section 12 of such Act shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 by a public housing agency participating in the demonstration under this part shall not be diminished by its participation.

(g) RECORDS, REPORTS, AND AUDITS.—

(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

(A) document the use of funds made available under this section;

(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

(C) describe and analyze the effect of assisted activities in addressing the objectives of this part.

(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(h) EVALUATION AND REPORT.—

(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the United States Housing Act of 1937 for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of \$5,000,000—

(1) to provide, directly or by contract, training and technical assistance—

(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

REPEAL OF PROVISIONS REGARDING INCOME DISREGARDS

SEC. 207. (a) MAXIMUM ANNUAL LIMITATION ON RENT INCREASES RESULTING FROM EMPLOYMENT.—Section 957 of the Cranston-Gonzalez National Affordable Housing Act is hereby repealed, retroactive to November 28, 1990, and shall be of no effect.

(b) ECONOMIC INDEPENDENCE.—Section 923 of the Housing and Community Development Act of 1992 is hereby repealed, retroactive to October 28, 1992, and shall be of no effect.

EXTENSION OF MULTIFAMILY HOUSING FINANCE PROGRAM

SEC. 208. (a) The first sentence of section 542(b)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not more than 15,000 units over fiscal years 1993 and 1994" and inserting "on not more than 7,500 units during fiscal year 1996".

(b) The first sentence of section 542(c)(4) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995" and inserting "on not more than 10,000 units during fiscal year 1996".

FORECLOSURE OF HUD-HELD MORTGAGES THROUGH THIRD PARTIES

SEC. 209. During fiscal year 1996, the Secretary of Housing and Urban Development may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages held by the Secretary under the National Housing Act.

RESTRUCTURING OF THE HUD MULTIFAMILY MORTGAGE PORTFOLIO THROUGH STATE HOUSING FINANCE AGENCIES.

SEC. 210. During fiscal year 1996, the Secretary of Housing and Urban Development may sell or otherwise transfer multifamily mortgages held by the Secretary under the National Housing Act to a State housing finance agency in connection with a program authorized under section 542 (b) or (c) of the Housing and Community Development Act of 1992 without regard to the unit limitations in section 542(b)(5) or 542(c)(4) of such Act.

## TRANSFER OF SECTION 8 AUTHORITY

SEC. 211. Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end:

"(bb) TRANSFER OF BUDGET AUTHORITY.—If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.”.

## DOCUMENTATION OF MULTIFAMILY REFINANCINGS

SEC. 212. Notwithstanding the 16th paragraph under the item relating to “administrative provisions” in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995 (Public Law 103-327; 108 Stat. 2316), the amendments to section 223(a)(7) of the National Housing Act made by the 15th paragraph of such Act shall be effective during fiscal year 1996 and thereafter.

## FHA MULTIFAMILY DEMONSTRATION AUTHORITY

SEC. 213. (a) On and after October 1, 1995, and before October 1, 1997, the Secretary of Housing and Urban Development shall initiate a demonstration program with respect to multifamily projects whose owners agree to participate and whose mortgages are insured under the National Housing Act and that are assisted under section 8 of the United States Housing Act of 1937 and whose present section 8 rents are, in the aggregate, in excess of the fair market rent of the locality in which the project is located. These programs shall be designed to test the feasibility and desirability of the goal of ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported with or without mortgage insurance under the National Housing Act and with or without above-market rents and utilizing project-based assistance or, with the consent of the property owner, tenant-based assistance, while taking into account the need for assistance of low- and very low-income families in such projects. In carrying out this demonstration, the Secretary may use arrangements with third parties, under which the Secretary may provide for the assumption by the third parties (by delegation, contract, or otherwise) of some or all of the functions, obligations, and benefits of the Secretary.

(1) GOALS.—The Secretary of Housing and Urban Development shall carry out the demonstration programs under this section in a manner that—

- (A) will protect the financial interests of the Federal Government;
- (B) will result in significant discretionary cost savings through debt restructuring and subsidy reduction; and
- (C) will, in the least costly fashion, address the goals of—
  - (i) maintaining existing housing stock in a decent, safe, and sanitary condition;
  - (ii) minimizing the involuntary displacement of tenants;
  - (iii) restructuring the mortgages of such projects in a manner that is consistent with local housing market conditions;
  - (iv) supporting fair housing strategies;
  - (v) minimizing any adverse income tax impact on property owners; and
  - (vi) minimizing any adverse impact on residential neighborhoods.

In determining the manner in which a mortgage is to be restructured or the subsidy reduced, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(2) DEMONSTRATION APPROACHES.—In carrying out the demonstration programs, subject to the appropriation in subsection (f), the Secretary may use one or more of the following approaches:

- (A) Joint venture arrangements with third parties, under which the Secretary may provide for the assumption by the third parties (by delegation, contract, or otherwise) of some or all of the functions, obligations, and benefits of the Secretary.
- (B) Subsidization of the debt service of the project to a level that can be paid by an owner receiving an unsubsidized market rent.
- (C) Renewal of existing project-based assistance contracts where the Secretary shall approve proposed initial rent levels that do not exceed the

greater of 120 percent of fair market rents or comparable market rents for the relevant metropolitan market area or at rent levels under a budget-based approach.

(D) Nonrenewal of expiring existing project-based assistance contracts and providing tenant-based assistance to previously assisted households.

(b) For purposes of carrying out demonstration programs under subsection (a)—

(1) the Secretary may manage and dispose of multifamily properties owned by the Secretary as of October 1, 1995 and multifamily mortgages held by the Secretary as of October 1, 1995 for properties assisted under section 8 with rents above 110 percent of fair market rents without regard to any other provision of law; and

(2) the Secretary may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages held by the Secretary under the National Housing Act.

(c) For purposes of carrying out demonstration programs under subsection (a), subject to such third party consents (if any) as are necessary including but not limited to (i) consent by the Government National Mortgage Association where it owns a mortgage insured by the Secretary; (ii) consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program; and (iii) parties to any contractual agreement which the Secretary proposes to modify or discontinue, and subject to the appropriation in subsection (c), the Secretary or one or more third parties designated by the Secretary may take the following actions:

(1) Notwithstanding any other provision of law, and subject to the agreement of the project owner, the Secretary or third party may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or third party determines would interfere with the ability of the project to operate without above market rents. The Secretary or third party may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program to apply any accumulated residual receipts toward effecting the purposes of this section.

(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance to third parties, on such terms and conditions as the Secretary may determine.

(3) The Secretary may offer project-based assistance with rents at or below fair market rents for the locality in which the project is located and may negotiate such other terms as are acceptable to the Secretary and the project owner.

(4) The Secretary may offer to pay all or a portion of the project's debt service, including payments monthly from the appropriate Insurance Fund, for the full remaining term of the insured mortgage.

(5) Notwithstanding any other provision of law, the Secretary may forgive and cancel any FHA-insured mortgage debt that a demonstration program property cannot carry at market rents while bearing full operating costs.

(6) For demonstration program properties that cannot carry full operating costs (excluding debt service) at market rents, the Secretary may approve project-based rents sufficient to carry such full operating costs and may offer to pay the full debt service in the manner provided in paragraph (4).

(d) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

(e) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary may carry out demonstration programs under this section with respect to mortgages not to exceed 15,000 units. The demonstration authorized under this section shall not be expanded until the reports required under subsection (g) are submitted to the Congress.

(f) APPROPRIATION.—For the cost of modifying loans held or guaranteed by the Federal Housing Administration, as authorized by this subsection (a)(2) and subsection (c), \$30,000,000, to remain available until September 30, 1997: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

(g) REPORT TO CONGRESS.—The Secretary shall submit to the Congress every six months after the date of enactment of this Act a report describing and assessing

the programs carried out under the demonstrations. The Secretary shall also submit a final report to the Congress not later than six months after the end of the demonstrations. The reports shall include findings and recommendations for any legislative action appropriate. The reports shall also include a description of the status of each multifamily housing project selected for the demonstrations under this section. The final report may include—

- (1) the size of the projects;
- (2) the geographic locations of the projects, by State and region;
- (3) the physical and financial condition of the projects;
- (4) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;
- (5) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the transfer or sale of multifamily housing projects;
- (6) a description of the extent to which the demonstrations under this section have displaced tenants of multifamily housing projects;
- (7) a description of any of the functions performed in connection with this section that are transferred or contracted out to public or private entities or to States;
- (8) a description of the impact to which the demonstrations under this section have affected the localities and communities where the selected multifamily housing projects are located; and
- (9) a description of the extent to which the demonstrations under this section have affected the owners of multifamily housing projects.

#### SECTION 8 CONTRACT RENEWALS

**SEC. 214.** (a) For fiscal year 1996 and henceforth, the Secretary of Housing and Urban Development may use amounts available for the renewal of assistance under section 8 of the United States Housing Act of 1937, upon termination or expiration of a contract for assistance under section 8 of such Act of 1937 (other than a contract for tenant-based assistance and notwithstanding section 8(v) of such Act for loan management assistance), to provide assistance under section 8 of such Act, subject to the Section 8 Existing Fair Market Rents, for the eligible families assisted under the contracts at expiration or termination, which assistance shall be in accordance with terms and conditions prescribed by the Secretary.

(b) Notwithstanding subsection (a) and except for projects assisted under section 8(e)(2) of the United States Housing Act of 1937 (as it existed immediately prior to October 1, 1991), at the request of the owner, the Secretary shall renew for a period of one year contracts for assistance under section 8 that expire or terminate during fiscal year 1996 at the current rent levels.

(c) Section 8(v) of the United States Housing Act of 1937 is amended to read as follows: "The Secretary may extend expiring contracts entered into under this section for project-based loan management assistance to the extent necessary to prevent displacement of low-income families receiving such assistance as of September 30, 1996".

(d) Section 236(f) of the National Housing Act (12 U.S.C. 1715z-1(f)) is amended:

- (1) by striking the second sentence in paragraph (1) and inserting in lieu thereof the following: "The rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the lower of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the fair market rental established under section 8(c) of the United States Housing Act of 1937 for the market area in which the housing is located, as represents 30 per centum of the tenant's adjusted income."; and
- (2) by striking paragraph (6).".

#### EXTENSION OF HOME EQUITY CONVERSION MORTGAGE PROGRAM

**SEC. 215.** Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended—

- (1) in the first sentence, by striking "September 30, 1995" and inserting "September 30, 1996"; and
- (2) in the second sentence, by striking "25,000" and inserting "30,000".

#### ASSESSMENT COLLECTION DATES FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

**SEC. 216.** Section 1316(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 4516(b)) is amended by striking paragraph (2) and inserting the following new paragraph:

"(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually for each fiscal year, on October 1 and April 1."

#### MERGER LANGUAGE FOR ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS AND ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

SEC. 217. All remaining obligated and unobligated balances in the Renewal of Expiring Section 8 Subsidy Contracts account on September 30, 1995, shall immediately thereafter be transferred to and merged with the obligated and unobligated balances, respectively, of the Annual Contributions for Assisted Housing account.

#### DEBT FORGIVENESS

SEC. 218. (a) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Hubbard Hospital Authority of Hubbard, Texas, relating to the public facilities loan for Project Number PFL-TEX-215, issued under title II of the Housing Amendments of 1955. Such hospital authority is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

(b) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Groveton Texas Hospital Authority relating to the public facilities loan for Project Number TEX-41-PFL0162, issued under title II of the Housing Amendments of 1955. Such hospital authority is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

(c) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Hepzibah Public Service District of Hepzibah, West Virginia, relating to the public facilities loan for Project Number WV-46-PFL0031, issued under title II of the Housing Amendments of 1955. Such public service district is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

#### CLARIFICATIONS

SEC. 219. For purposes of Federal law, the Paul Mirabile Center in San Diego, California, including areas within such Center that are devoted to the delivery of supportive services, has been determined to satisfy the "continuum of care" requirements of the Department of Housing and Urban Development, and shall be treated as—

(a) consisting solely of residential units that (i) contain sleeping accommodations and kitchen and bathroom facilities, (ii) are located in a building that is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on December 19, 1989) to independent living within 24 months, (iii) are suitable for occupancy, with each cubicle constituting a separate bedroom and residential unit, (iv) are used on other than a transient basis, and (v) shall be originally placed in service on November 1, 1995; and

(b) property that is entirely residential rental property, namely, a project for residential rental property.

#### EMPLOYMENT LIMITATIONS

SEC. 220. (a) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than seven Assistant Secretaries, notwithstanding section 4(a) of the Department of Housing and Urban Development Act.

(b) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than 77 schedule C and 20 non-career senior executive service employees.

#### USE OF FUNDS

SEC. 221. (a) Of the \$93,400,000 earmarked in Public Law 101-144 (103 Stat. 850), as amended by Public Law 101-302 (104 Stat. 237), for special projects and purposes, any amounts remaining of the \$500,000 made available to Bethlehem House in Highland, California, for site planning and loan acquisition shall instead be made available to the County of San Bernardino in California to assist with the expansion of the Los Padrinos Gang Intervention Program and the Unity Home Domestic Violence Shelter.

(b) The amount made available for fiscal year 1995 for the removal of asbestos from an abandoned public school building in Toledo, Ohio shall be made available for the renovation and rehabilitation of an industrial building at the University of Toledo in Toledo, Ohio.

#### LEAD-BASED PAINT ABATEMENT

SEC. 222. (a) Section 1011 of Title X—Residential Lead-Based Paint Hazard Reduction Act of 1992 is amended as follows: Strike “priority housing” wherever it appears in said section and insert “housing”.

(b) Section 1011(a) shall be amended as follows: At the end of the subsection after the period, insert: “Grants shall only be made under this section to provide assistance for housing which meets the following criteria—

“(1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;

“(2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

“(3) notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.”

#### EXTENSION PERIOD FOR SHARING UTILITY COST SAVINGS WITH PHAS

SEC. 223. Section 9(a)(3)(B)(i) of the United States Housing Act of 1937 is amended by striking “for a period not to exceed 6 years”.

#### MORTGAGE NOTE SALES

SEC. 223A. The first sentence of section 221(g)(4)(C)(viii) of the National Housing Act is amended by striking “September 30, 1995” and inserting in lieu thereof “September 30, 1996”.

#### REPEAL OF FROST-LELAND

SEC. 223B. Section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–213) is repealed.

#### FHA SINGLE-FAMILY ASSIGNMENT PROGRAM REFORM

SEC. 223C. (a) FORECLOSURE AVOIDANCE.—The last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: “*And provided further*, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to the foreclosure of a mortgage that is in default, which actions may include special foreclosure, loan modification, and deeds in lieu of foreclosure, all upon terms and conditions as the mortgagee shall determine in the mortgagee’s sole discretion, within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review.”.

(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

#### “AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

“SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim

amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

“(1) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 12 of the monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

“(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

**(b) ASSIGNMENT.—**

“(1) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

“(2) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

“(A) the mortgage was in default;

“(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay, at interest rates not exceeding current market interest rates; and

“(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary determines to be in the best interests of the appropriate insurance fund.

“(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under a program established under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund, in an amount that the Secretary determines to be appropriate, not to exceed the amount necessary to compensate the mortgagee for the assignment and any losses and expenses resulting from the mortgage modification.

**(c) PROHIBITION OF JUDICIAL REVIEW.—**No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.”

**(c) SAVINGS PROVISION.—**Any mortgage for which the mortgagor has applied to the Secretary, before the date of enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, for assignment pursuant to subsection (b) of this section as in effect before such date of enactment shall continue to be governed by the provisions of such section, as in effect immediately before such date of enactment.

**(d) APPLICABILITY OF OTHER LAWS.—**No provision of this Act, or any other law, shall be construed to require the Secretary of Housing and Urban Development to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under the National Housing Act, or to accept assignments of such mortgages.

**(e) APPLICABILITY OF AMENDMENTS.—**Except as provided in subsection (d), the amendments made by subsections (a) and (b) shall apply with respect to mortgages originated before fiscal year 1996.

**(f) REGULATIONS.—**Not later than 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue interim regulations to implement this section and amendments made by this section.

**(g) EFFECTIVENESS AND APPLICABILITY.—**If this Act is enacted after the date of enactment of the Balanced Budget Act of 1995—

(1) subsections (a), (b), (c), (d), and (e) of this section shall not take effect; and

(2) section 2052(c) of the Balanced Budget Act of 1995 is amended by striking “that are originated on or after October 1, 1995” and inserting in lieu thereof “to mortgages originated before, during, and after fiscal year 1996.”

#### SPENDING LIMITATIONS

**SEC. 223D. (a)** None of the funds in this Act may be used by the Secretary to impose any sanction, or penalty because of the enactment of any State or local law or regulation declaring English as the official language.

(b) No part of any appropriation contained in this Act shall be used for lobbying activities as prohibited by law.

#### TRANSFER OF FUNCTIONS TO THE DEPARTMENT OF JUSTICE

SEC. 223E. All functions, activities and responsibilities of the Secretary of Housing and Urban Development relating to title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and the Fair Housing Act, including any rights guaranteed under the Fair Housing Act (including any functions relating to the Fair Housing Initiatives program under section 561 of the Housing and Community Development Act of 1987), are hereby transferred to the Attorney General of the United States effective April 1, 1997: *Provided*, That none of the aforementioned authority or responsibility for enforcement of the Fair Housing Act shall be transferred to the Attorney General until adequate personnel and resources allocated to such activity at the Department of Housing and Urban Development are transferred to the Department of Justice.

SEC. 224. None of the funds provided in this Act may be used during fiscal year 1996 to investigate or prosecute under the Fair Housing Act (42 U.S.C. 3601, et seq.) any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of non-frivolous legal action, that is engaged in solely for the purposes of achieving or preventing action by a Government official, entity, or court of competent jurisdiction.

SEC. 225. None of the funds provided in this Act many be used to take any enforcement action with respect to a complaint of discrimination under the Fair Housing Act (42 U.S.C. 3601, et seq.) on the basis of familial status and which involves an occupancy standard established by the housing provider except to the extent that it is found that there has been discrimination in contravention of the standards provided in the March 20, 1991 Memorandum from the General Counsel of the Department of Housing and Urban Development to all Regional Counsel or until such time that HUD issues a final rule in accordance with section 553 of title 5, United States Code.

#### CDBG ELIGIBLE ACTIVITIES

SEC. 226. Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

- (1) in paragraph (4)—
  - (A) by inserting “reconstruction,” after “removal;” and
  - (B) by striking “acquisition for rehabilitation, and rehabilitation” and inserting “acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation”;
- (2) in paragraph (13), by striking “and” at the end;
- (3) by striking paragraph (19);
- (4) in paragraph (24), by striking “and” at the end;
- (5) in paragraph (25), by striking the period at the end and inserting “; and”;
- (6) by redesignating paragraphs (20) through (25) as paragraphs (19) through (24), respectively; and
- (7) by redesignating paragraph (21) (as added by section 1012(f)(3) of the Housing and Community Development Act of 1992) as paragraph (25).

### TITLE III

#### INDEPENDENT AGENCIES

##### AMERICAN BATTLE MONUMENTS COMMISSION

###### SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; \$20,265,000, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign sta-

tions, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

#### CONSUMER PRODUCT SAFETY COMMISSION

##### SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed \$500 for official reception and representation expenses, \$40,000,000.

#### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

##### NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

For necessary expenses for the Corporation for National and Community Service in carrying out the orderly termination of programs, activities, and initiatives under the National and Community Service Act of 1990, as amended (Public Law 103-82), \$15,000,000: *Provided*, That such amount shall be utilized to resolve all responsibilities and obligations in connection with said Corporation and the Corporation's Office of Inspector General.

#### COURT OF VETERANS APPEALS

##### SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251-7292, \$9,000,000, of which not to exceed \$678,000, to remain available until September 30, 1997, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this head in Public Law 102-229.

#### DEPARTMENT OF DEFENSE—CIVIL

##### CEMETERIAL EXPENSES, ARMY

##### SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed \$1,000 for official reception and representation expenses; \$11,946,000, to remain available until expended.

#### ENVIRONMENTAL PROTECTION AGENCY

##### SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed \$75,000 per project; \$525,000,000, which shall remain available until September 30, 1997.

## ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project; and not to exceed \$6,000 for official reception and representation expenses; \$1,550,300,000, which shall remain available until September 30, 1997: *Provided*, That, notwithstanding any other provision of law, for this fiscal year and hereafter, an industrial discharger that is a pharmaceutical manufacturing facility and discharged to the Kalamazoo Water Reclamation Plant (an advanced wastewater treatment plant with activated carbon) prior to the date of enactment of this Act may be exempted from categorical pretreatment standards under section 307(b) of the Federal Water Pollution Control Act, as amended, if the following conditions are met:

- (1) the owner or operator of the Kalamazoo Water Reclamation Plant applies to the State of Michigan for an exemption for such industrial discharger,
- (2) the State or Administrator, as applicable, approves such exemption request based upon a determination that the Kalamazoo Water Reclamation Plant will provide treatment and pollution removal equivalent to or better than that which would be required through a combination of pretreatment by such industrial discharger and treatment by the Kalamazoo Water Reclamation Plant in the absence of the exemption, and
- (3) compliance with paragraph (2) is addressed by the provisions and conditions of a permit issued to the Kalamazoo Water Reclamation Plant under section 402 of such Act, and there exists an operative financial contract between the City of Kalamazoo and the industrial user and an approved local pretreatment program, including a joint monitoring program and local controls to prevent against interference and pass through.

## OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project, \$28,500,000.

## BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or use by, the Environmental Protection Agency, \$60,000,000, to remain available until expended.

## HAZARDOUS SUBSTANCE SUPERFUND

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project; not to exceed \$1,163,400,000, to remain available until expended, consisting of \$913,400,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101-508, and \$250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101-508: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That \$11,000,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1996: *Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed \$59,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reau-

thorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1996: *Provided further*, That none of the funds made available under this heading may be used by the Environmental Protection Agency to propose for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended (42 U.S.C. 9605), unless the Administrator receives a written request to propose for listing or to list a facility from the Governor of the State in which the facility is located, or unless legislation to reauthorize CERCLA is enacted.

#### LEAKING UNDERGROUND STORAGE TANK TRUST FUND

##### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project, \$45,827,000, to remain available until expended: *Provided*, That no more than \$7,000,000 shall be available for administrative expenses: *Provided further*, That \$500,000 shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1996.

#### OIL SPILL RESPONSE

##### (INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, \$15,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: *Provided*, That not more than \$8,000,000 of these funds shall be available for administrative expenses.

#### STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, \$2,323,000,000, to remain available until expended, of which \$1,400,000,000 shall be for making capitalization grants for State revolving funds to support water infrastructure financing; \$100,000,000 for architectural, engineering, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; \$50,000,000 for grants to the State of Texas, which shall be matched by an equal amount of State funds from State resources, for the purpose of improving wastewater treatment for colonias; \$15,000,000 for grants to the State of Alaska, subject to an appropriate cost share as determined by the Administrator, to address wastewater infrastructure needs of rural and Alaska Native villages; and \$100,000,000 for making grants for the construction of wastewater treatment facilities and the development of groundwater in accordance with the terms and conditions specified for such grants in the Conference Report accompanying this Act (H.R. 2099): *Provided*, That beginning in fiscal year 1996 and each fiscal year thereafter, and notwithstanding any other provision of law, the Administrator is authorized to make grants annually from funds appropriated under this heading, subject to such terms and conditions as the Administrator shall establish, to any State or federally recognized Indian tribe for multi-media or single media pollution prevention, control and abatement and related environmental activities at the request of the Governor or other appropriate State official or the tribe: *Provided further*, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs: *Provided further*, That of the \$1,400,000,000 for capitalization grants for State revolving funds to support water infrastructure financing, \$275,000,000 shall be for drinking water State revolving funds, but if no drinking water State revolving fund legislation is enacted by June 1, 1996, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended: *Provided further*, That of the funds made available in Public Law 103-327 and in Public Law 103-124 for capitalization grants for State revolving funds to support water infrastructure financing, \$225,000,000 shall be made available for capitaliza-

tion grants for State revolving funds under title VI of the Federal Water Pollution Control Act, as amended, if no drinking water State revolving fund legislation is enacted by June 1, 1996: *Provided further*, That of the funds made available under this heading for capitalization grants for State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, \$50,000,000 shall be for wastewater treatment in impoverished communities pursuant to section 102(d) of H.R. 961 as approved by the United States House of Representatives on May 16, 1995: *Provided further*, That of the funds appropriated in the Construction Grants and Water Infrastructure/State Revolving Funds accounts since the appropriation for the fiscal year ending September 30, 1992, and hereafter, for making grants for wastewater treatment works construction projects, portions may be provided by the recipients to States for managing construction grant activities, on condition that the States agree to reimburse the recipients from State funding sources: *Provided further*, That the funds made available in Public Law 103-327 for a grant to the City of Mt. Arlington, New Jersey, in accordance with House Report 103-715, shall be available for a grant to that city for water and sewer improvements.

#### ADMINISTRATIVE PROVISIONS

**SEC. 301.** None of the funds provided in this Act may be used within the Environmental Protection Agency for any final action by the Administrator or her delegate for signing and publishing for promulgation of a rule concerning any new standard for radon in drinking water.

**SEC. 302.** None of the funds provided in this Act may be used during fiscal year 1996 to sign, promulgate, implement or enforce the requirement proposed as "Regulation of Fuels and Fuel Additives: Individual Foreign Refinery Baseline Requirements for Reformulated Gasoline" at volume 59 of the Federal Register at pages 22800 through 22814.

**SEC. 303.** None of the funds appropriated to the Environmental Protection Agency for fiscal year 1996 may be used to implement section 404(c) of the Federal Water Pollution Control Act, as amended. No pending action by the Environmental Protection Agency to implement section 404(c) with respect to an individual permit shall remain in effect after the date of enactment of this Act.

**SEC. 304.** None of the funds appropriated under this Act may be used to implement the requirements of section 186(b)(2), section 187(b) or section 211(m) of the Clean Air Act (42 U.S.C. 7512(b)(2), 7512a(b), or 7545(m)) with respect to any moderate nonattainment area in which the average daily winter temperature is below 0 degrees Fahrenheit. The preceding sentence shall not be interpreted to preclude assistance from the Environmental Protection Agency to the State of Alaska to make progress toward meeting the carbon monoxide standard in such areas and to resolve remaining issues regarding the use of oxygenated fuels in such areas.

#### EXECUTIVE OFFICE OF THE PRESIDENT

##### OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed \$2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, \$4,981,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

##### COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Improvement Act of 1970 and Reorganization Plan No. 1 of 1977, \$1,000,000.

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

##### DISASTER RELIEF

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), \$222,000,000, to remain available until expended.

#### DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, \$2,155,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$25,000,000.

In addition, for administrative expenses to carry out the direct loan program, \$95,000.

#### SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed \$2,500 for official reception and representation expenses; \$168,900,000.

#### OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$4,673,000.

#### EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404-405), and Reorganization Plan No. 3 of 1978, \$203,044,000.

#### EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated \$100,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

#### NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and the National Flood Insurance Reform Act of 1994, not to exceed \$20,562,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed \$70,464,000 for flood mitigation, including up to \$12,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968, as amended, which amount shall be available until September 30, 1997. In fiscal year 1996, no funds in excess of (1) \$47,000,000 for operating expenses, (2) \$292,526,000 for agents' commissions and taxes, and (3) \$3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

#### ADMINISTRATIVE PROVISION

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected beginning in fiscal year 1996 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1996 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness,

response and associated services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1996.

#### GENERAL SERVICES ADMINISTRATION

##### CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, \$2,061,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of \$7,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1996 shall not exceed \$2,602,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1996 in excess of \$7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

##### HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; \$5,456,600,000, to remain available until September 30, 1997.

##### SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, for the conduct and support of science, aeronautics, and technology research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; \$5,845,900,000, to remain available until September 30, 1997.

##### MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed \$35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; \$2,502,200,000, to remain available until September 30, 1997.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$16,000,000.

## ADMINISTRATIVE PROVISIONS

## (INCLUDING TRANSFER OF FUNDS)

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, the amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 1998.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support" and "Office of Inspector General", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1996 and may be used to enter into contracts for training, investigations, cost associated with personnel relocation, and for other services, to be provided during the next fiscal year.

The unexpired balances of prior appropriations to NASA for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides funds for such activity under this Act. Balances so transferred may be merged with funds in the newly established account and thereafter may be accounted for as one fund to be available for the same purposes and under the same terms and conditions.

Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration shall convey, without reimbursement, to the State of Mississippi, all rights, title and interest of the United States in the property known as the Yellow Creek Facility and consisting of approximately 1,200 acres near the city of Iuka, Mississippi, including all improvements thereon and also including any personal property owned by NASA that is currently located on-site and which the State of Mississippi requires to facilitate the transfer: *Provided*, That appropriated funds shall be used to effect this conveyance: *Provided further*, That \$10,000,000 in appropriated funds otherwise available to the National Aeronautics and Space Administration shall be transferred to the State of Mississippi to be used in the transition of the facility: *Provided further*, That each Federal agency with prior contact to the site shall remain responsible for any and all environmental remediation made necessary as a result of its activities on the site: *Provided further*, That in consideration of this conveyance, the National Aeronautics and Space Administration may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States: *Provided further*, That the conveyance of the site and the transfer of the funds to the State of Mississippi shall occur not later than thirty days from the date of enactment of this Act.

Upon the determination by the Administrator that such action is necessary, the Administrator may, with the approval of the Office of Management and Budget, transfer not to exceed \$50,000,000 of funds made available in this Act to the National Aeronautics and Space Administration between such appropriations or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen requirements, than those for which originally appropriated: *Provided further*, That the Administrator of the National Aeronautics and Space Administration shall notify the Congress promptly of all transfers made pursuant to this authority.

## NATIONAL CREDIT UNION ADMINISTRATION

## CENTRAL LIQUIDITY FACILITY

During fiscal year 1996, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed \$600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1996 shall not exceed \$560,000.

## NATIONAL SCIENCE FOUNDATION

## RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; \$2,274,000,000, of which not to exceed \$235,000,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1997: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

## MAJOR RESEARCH EQUIPMENT

For necessary expenses in carrying out major construction projects, and related expenses, pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), \$70,000,000, to remain available until expended.

## ACADEMIC RESEARCH INFRASTRUCTURE

For necessary expenses in carrying out an academic research infrastructure program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, \$100,000,000, to remain available until September 30, 1997.

## EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, \$599,000,000, to remain available until September 30, 1997: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

## SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed \$9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; \$127,310,000: *Provided*, That contracts may be entered into under salaries and expenses in fiscal year 1996 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

## OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$4,490,000, to remain available until September 30, 1997.

## NATIONAL SCIENCE FOUNDATION HEADQUARTERS RELOCATION

For necessary support of the relocation of the National Science Foundation, \$5,200,000: *Provided*, That these funds shall be used to reimburse the General Services Administration for services and related acquisitions in support of relocating the National Science Foundation.

## NEIGHBORHOOD REINVESTMENT CORPORATION

### PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), \$38,667,000.

### SELECTIVE SERVICE SYSTEM

#### SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed \$1,000 for official reception and representation expenses; \$22,930,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by the Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

### TITLE IV

#### CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1996 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

#### RESOLUTION TRUST CORPORATION

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$11,400,000.

### TITLE V

#### GENERAL PROVISIONS

SEC. 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service Sys-

tem shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for Level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 509. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 510. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 511. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 512. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 513. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 514. Such sums as may be necessary for fiscal year 1996 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 515. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than \$300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 516. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 517. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A-21.

SEC. 518. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 519. In fiscal year 1996, the Director of the Federal Emergency Management Agency shall sell the disaster housing inventory of mobile homes and trailers, and the proceeds thereof shall be deposited in the Treasury.

SEC. 520. Such funds as may be necessary to carry out the orderly termination of the Office of Consumer Affairs shall be made available from funds appropriated to the Department of Health and Human Services for fiscal year 1996.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996".

NEWT GINGRICH,  
*Speaker of the House of Representatives.*  
STROM THURMOND,  
*President of the Senate pro tempore.*

[Endorsement on back of bill:]

I certify that this Act originated in the House of Representatives.

ROBIN H. CARLE, Clerk.

Senator MIKULSKI. Like you, I agree we cannot govern by shutdown. As the Senator from Maryland, there are over 200,000 Federal employees in this State and we represent flagship agencies, from the National Institutes of Health trying to find the cure for Alzheimer's and Parkinson's and AIDS and cancer to the FDA, to the National Bureau of Standards and NASA-Goddard, and many others that I could talk about, and in Maryland we have been battered by the snow and we have been battered by the budget, and we are weary of it all.

Like you, during the shutdown I visited key Federal agencies, and two that I visited were, (1) the Veterans Administration, the marvelous hospital that was funded through this committee, and talked with doctors, nurses, lab technicians, and janitorial staff who are deemed essential services who were not getting paid. They

were out there making sure that veterans got the health care they needed, but were not getting paid.

Over at NASA-Goddard in Maryland, while they scanned the universe we had contractors who were not being paid, and now with the flooding that has occurred throughout the east coast and in my own State facing great devastation in neighborhoods, FEMA was on the job working with Governor Glendening, the National Guard, and emergency management to protect citizens and to protect property, and at the same time they were doing that, they were working on the shutdown standard.

So we, I think, have to say hat's off to the Federal employees who were deemed essential, performed that, and yet I think every Federal employee in our appropriations is essential, and I hope that from henceforth we do not govern by shutdown.

I want to commend you for holding these hearings, and I, too, like you, am sorry that our bill was not signed in law. It will be very useful to have a conversation today on the severe negative impact that the shutdown did have on the environment, on housing, but we also know it had on veterans, on National Service, where young people are trying to earn a voucher to reduce their student debt, and so on.

HUD particularly has been hard hit this year. When we did the rescission bill, it was really HUD that funded Federal emergency management disaster from around the country. HUD was hit very early at the beginning of the year.

Secretary Cisneros, we thank you for working with us on those management changes. We are very concerned about HUD, its level of funding, and what we need to do. As I understand, it has been cut right now by over \$1 billion, but it had been cut \$4 billion in March, so when we look at the cumulative and synergistic effects on HUD, I think it has a severe impact on the mission of HUD in which we hope to help the poor help themselves and move to home ownership.

There are issues related to veterans' health care, EPA cut by 22 percent in reductions in enforcement for environmental and air pollution standards, funds going to the States for waste treatment, and other issues that I know we will talk about in terms of the environment.

Mr. Chairman, like you, I am going to work for a balanced budget. This budget impasse disrupted the lives of Federal employees, whether it was a vet who needed medical treatment, a senior who needed affordable housing, or a small business owner who needed an environmental permit but could not get it because we were shut down. During the furlough, furloughed employees could not issue those permits, conduct inspections, or enforce these laws.

So this is the climate in which we find ourselves in today, but one thing that remains unchanged is our tradition of working together, and I hope that under your leadership—and working with your leadership, I think we fought hard to make improvements in the fiscal 1996 bill. We repaired much of the extreme measures proposed in the House, and you should be saluted for that. We protected many of those improvements through the two conferences, and so I want to thank you for the leadership you provided.

I think we were dealt a difficult deal. We were given a skimpy allocation. We tried to do the best that we could. Then having said that, we were then—we took a bill to the floor, faced a conference, did a veto, and then I think you and I got caught up in the Presidential politics of both parties and now we have to look at the consequences of that, see where we need to do mending, and I would hope that this is the last continuing funding resolution we have to pass, and that we pass the 1996 conference level, or if given the opportunity, offer the amendment that you had wanted to do in the first place.

Senator BOND. Thank you very much, Senator Mikulski.

Actually, before I call on Secretary Cisneros, I understand, Mr. Secretary, that you are going to be losing the services of Herb Persil, a budget officer who is going to be retiring at the end of next week. Despite his long years of service, I am afraid he just cannot enjoy any more of the current budget crisis. We appreciate his distinguished service to the Department and to the Nation. I sympathize with the difficulty of your job. It must be particularly exciting this year, and I offer our hearty congratulations on his escape.

So with that, Mr. Secretary.

#### STATEMENT OF HENRY G. CISNEROS

Secretary CISNEROS. Thank you very much, Mr. Chairman. We are going to miss Herb a great deal. He has done a wonderful public service.

I appreciate the opportunity to be before you. You and Senator Mikulski and the members of this subcommittee have given us the opportunity to discuss the impact of the uncertain 1996 funding environment on HUD's operations and customers. I, too, want to thank both of you, as you have spoken so fondly of each other, for extending an open door to those of us in the Department so that we can discuss critical questions.

We have differences on issues related to ranges of funding or even program questions, but you have always accorded us the opportunity to present our case to you and to your able staffs, and this relationship has been professional and productive, and I must say, I want to thank the chairman for what I have deemed to be a personal attitude—perhaps it stems from his years as a Governor, or just personal temperament of trying to be a good public servant, but he has always been a problem solver, and even when things have sort of gotten down to ideological battles in the larger set of forces, he has constantly focused on trying to solve the problem before us and keep good programs going, and for that, I am grateful.

Senator Mikulski, thank you for your advice and counsel both in the years that you were chairman as well as now, as we deal with both national programs as well as the specific circumstances of Maryland and, this year, of Baltimore.

You and I have discussed repeatedly the administration's position on H.R. 2099, the VA-HUD appropriations bill. On the one hand, there are many provisions in the bill that we have worked on together and that represent positive reforms needed in America's housing programs, yet the bill also contains funding reductions

as well as harmful riders which have been unacceptable to the administration and, as you have stated, led to the President's veto last month. The bill, for example, cuts EPA funding deeply, eliminates key administration initiatives like National Service and community development financial institutions.

In the HUD area, the bill would cut funding for important administration priorities. Funding for the severely distressed public housing program, which is helping public housing authorities tear down the worst public housing projects and replace them with smaller scale, livable townhouse developments, is reduced from \$500 million in fiscal year 1995 to \$280 million in fiscal year 1996.

The funding reduction hampers the ability of public housing authorities to carry forward with these revitalization efforts and, as you know, we have worked in both of your States, St. Louis, and in Baltimore, with this important program.

Funding for another, the economic development initiative, would be cut, in fact, in this case, eliminated. Many mayors believe that this is the last most useful tool for creating jobs and leveraging private sector investment in the cities. There really is nothing left that even resembles the UDAG Program of the 1970's that did so much good across the country but this program and, unfortunately, in this appropriations bill, it is reduced from \$350 million to zero in fiscal year 1996.

We have used it in conjunction with the section 108 loan guarantees to build food markets, retail and manufacturing centers, start up loans for disadvantaged entrepreneurs, jobs so badly needed in our central cities, and but for this and a few programs at EDA, there really is little discretionary left that the mayors and local officials can use for job creation.

Third, funding for incremental housing certificates, which remains the principal tool for addressing the unmet worsening housing needs for low-income families have been largely eliminated. We had lengthy discussions, Senator. I know of your concerns about the cumulative effects of renewals of section 8. You are correct to be concerned about that. It is a very serious problem in any event, more serious when budget caps are placed on the Department so that the renewal effect has the effect of crowding out other urban programs.

So we join you in wanting to find solutions, but eliminating as this bill does incremental certificates is a dramatic difference from what the circumstances out in the country require.

The bill also contains some riders that are troublesome, particularly the transfer of HUD's fair housing responsibilities to the Department of Justice and the elimination of Federal preferences in the section 8 program.

Many groups as diverse as the National Fair Housing Alliance and the National Association of Realtors have expressed their opposition to the transfer of fair housing operation to the Justice Department.

What HUD does is more than enforce—conciliation, mediation, outreach, education, which the Justice Department has indicated it could not and would not do. This would be a blow, in our opinion, to the efforts of fair housing across the country.

Eliminating preference in the section 8 program could result in converting a program that has been very targeted on low-income families with the worst housing needs into one that would serve moderate-income families somewhat up the scale with less need for the assistance.

There are problems in the section 8 program, and in our continuing reinvention effort we seek to address them, problems of concentration in neighborhoods, mismanagement of the program so that we are not counseling families enough, problems with landlords who are abusive, and so forth, but this is not the way to fix it. When we have premium dollars, scarce dollars, running the eligibility up the scale so we have less money for the really poor is, in our judgment, not the way to use those scarce dollars.

Well, I believe these differences in funding and in policy can be resolved. As you said earlier, in the spirit of compromise we are willing to go a substantial way down the road, as we have, to work with you in resolving these in the weeks ahead.

As I have said before, this bill contains many positive provisions for HUD. I have made this point both within the administration and in the country at large. You have done a true public service in the reforms in public housing, in low-income housing preservation, in multifamily restructuring, in property disposition, in section 202, and in other areas of moving forward far-reaching reforms.

The reforms in this appropriations bill are equivalent to what most housing bills on the authorizing side have had in previous years in their far-reaching impact.

Let me be specific. Your legislation adopts and refines many elements of HUD's proposal to transform public housing. It would alter the basic dynamic of public housing by letting public housing authorities favor the admission of working families and changing current rent rules to encourage working families to remain in and move to good public housing.

Every property manager in America, public or private, tells me the same thing. The basic ingredient for a workable development is a mix of incomes. Therefore, we need to make it possible for people at somewhat higher ranges of income to come into public housing, and we need to make it possible for people, once they start to work, to be rewarded with improvements in their housing quality, and certainly not to have penalties for work. You have understood that, and given housing authorities the tools to do this.

It would help transform—your bill—the physical landscape of public housing by repealing the rules requiring one-for-one replacement of demolished units, thereby giving local agencies the flexibility to use modernization funds to replace demolished projects.

Again, since my arrival on this job, public housing officials have discussed the straitjacket of the one-for-one replacement rule as it has existed. This is a breakthrough, a big breakthrough. It would help impose market discipline in public housing by requiring public housing authorities to convert their most distressed stock to vouchers and empower HUD to order the demolition of nonviable developments.

We know that they exist in communities across the country. We are now working on Vaughn in St. Louis, Lexington and Lafayette

in Baltimore, and the physical skyline of those cities, the physical fabric of those neighborhoods is going to be changed, and people's lives are going to be touched in immensely positive ways. This bill makes the acceleration of those efforts possible.

These provisions are needed to help public housing authorities survive in a fiscal year when operating subsidies have been cut and capital funds have been cut. The policy flexibility implicit in this appropriations bill is all the more necessary when we face the inevitability of funding cuts, which we in the administration acknowledge are necessary. After all, the President signed the rescissions bill that, as you say, included dramatic cuts in HUD.

There is a bipartisan consensus that we have to get control on money issues. When we do that, however, we also have to face up to the reality and responsibility, as you have, that the housing authorities cannot have both cuts and the old straitjackets. The changes in policy are essential in a time when the budget is cut.

Your legislation also takes the first steps to bring the project-based section 8 inventory under control. It is now clear that the economics of providing project-based section 8 rental assistance have become untenable. Certain new properties received more Federal assistance than necessary to maintain them as decent, affordable housing, thus draining scarce tax dollars.

It is not unusual to find rents at section 8 properties far above local market rents. Across the street from a comparable building the one on Federal subsidy will have higher rents. Other developments have fallen into serious disrepair, causing problems for neighborhoods and residents alike.

This legislation, your appropriations bill, sets the stage for a comprehensive restructuring of the multifamily portfolio by renewing expiring section 8 contracts for 1 year, capping future assistance at local fair market levels, and providing a demonstration to test the feasibility of restructuring the mortgages on oversubsidized properties.

This is a very hard problem, but you have, as a committee, and with your staff, helped us find a way to solve it. There is not an easy, comfortable way to solve this problem. We have explored virtually every option to do this. What you have provided, we think, is the best hope.

Your legislation gives HUD new authority to streamline the multifamily property disposition process, and more flexibly eliminate the sections 202 and 811 programs that provide housing for elderly and persons with disabilities. Without these policy changes the funding levels would be insufficient to carry out the activities at the congressionally mandated level.

Finally, your legislation would overhaul the wasteful and expensive 1990 program designed to preserve FHA's older insured inventory. You strike a better balance between the owner's right to pre-pay, the need to preserve valuable, affordable housing, and the need to protect residents from being displaced.

Now, this bill, H.R. 2099, in both its positive aspects and its shortcomings, is particularly relevant given the compromise reached between the administration and Congress on a new continuing resolution. Last night, the House passed a continuing resolution that will fund HUD and other agencies until March 15. The

Senate is expected to vote this afternoon and send the bill to the President for signature, and it will avert a Government shutdown, which is horribly counterproductive to have such a shutdown.

The continuing resolution will set HUD program funding at the levels contained in the conference report for your bill. However, with a number of exceptions, the programs will be governed by 1995 policies, not the administrative provisions contained in this year's bill, so we revert to a world which I described earlier as in some sense the worst of both worlds, lower funding levels but old-style policy restrictions.

This would be an improvement from the continuing resolutions we have had to date—the current and prior continuing resolutions have not recognized the funding needs of HUD programs—but obviously still a problem. We do not want to continue through the year on a continuing resolution like the one that the House passed.

These continuing resolutions have generated short-term funding levels that compared to the HUD-VA bill are \$2.2 billion lower for section 8 contract renewals, \$300 million lower for public housing subsidies, and as I say, the old policies.

The proposed CR suffers on three counts. First, it will by its very nature impede the ability of the Department and its network of housing providers to carry out our programs in a timely manner. Applications and awards for competitive programs will be delayed. We are now in the fourth month of the fiscal year, and we are not able to assure communities that when we put out notices for applications that we are going to be able to carry them out, because we have only till March 15 under a CR.

The uncertainty of funds, the uncertainty of program guidelines, makes it difficult for HUD and the national network of homeless providers, nonprofit sponsors of elderly housing, public housing authorities, and others to proceed in an intelligent fashion. To minimize potential delays, we may shortly issue notices of fund availabilities announcing guidance for awards but noting that the awards are contingent on some long-term year-long resolution of the funding crisis.

So that is a problem, great uncertainty, and this is money that the communities by this time in the fiscal year normally would already see when they could count on it.

A second shortcoming of the CR is that it relies on H.R. 2099 as the basis for HUD funding. As I have already discussed, that leads to an underfunding of distressed public housing and incremental certificates. That is the problem.

The final shortcoming of the proposed CR is that it incorporates only some of the program reforms that are part of H.R. 2099. We just received the CR last evening, so we are still analyzing the proposed CR to discern more carefully which reforms are in and which reforms are out, but it appears that the negotiators have included only the reforms that save money in an explicit budgetary fashion, not some of the policy flexibility that is needed out in the communities, that save money at the community level, and frankly, that is too narrow a filter, just those that save money, not those that make the programs work.

So when they pick and choose, cherry-pick what reforms to include in the CR, they are not including the broad framework that your bill has thought through.

In conclusion, H.R. 2099 and the proposed CR attempt to conform HUD policy with the reality of reduced HUD funding levels, an essential exercise at a time of severe constraints. As we proceed, I am hopeful that whatever legislative vehicle eventually serves as HUD's full-year appropriation forges the linkage between funding and program reforms that are needed.

#### PREPARED STATEMENT

Again, let me close simply by thanking you for your problem-solving attitude as we go through this. I regard us on the same side of trying to make programs work for the American taxpayers, and for people who are eligible for programs, and I am deeply appreciative to be able to work with you, Mr. Chairman, Senator Mikulski, and other folks like you who are committed to making things work.

Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF HENRY G. CISNEROS

Chairman Bond, thank you for inviting me here this morning. I appreciate the opportunity you, Senator Mikulski and the members of your Subcommittee have given me to discuss the impact of the uncertain fiscal year 1996 funding environment on HUD's operations and customers.

I first want to commend you and Senator Mikulski for the "open-door" policy that you have set for deliberations between HUD and your Subcommittee. We clearly have differences on a range of funding and program issues—but you have always accorded us the opportunity to present our case to yourself and your able staff. I think this relationship has been both professional and productive.

You and I have discussed repeatedly the Administration's position on H.R. 2099, the VA/HUD Appropriations bill. On one hand, there are many administrative provisions in this bill that we have worked on together and represent positive reforms to our existing public and assisted housing programs.

Yet the bill also contains funding reductions as well as harmful riders that are unacceptable to the Administration and led to the President's veto last month. The bill, for example, cuts EPA funding deeply and eliminates key Administration initiatives like National Service and Community Development Finance Institutions.

In the HUD area, the bill would cut funding for several important Administration priorities.

Funding for the severely distressed public housing program—which is helping PHA's tear down the worst public housing projects and replace them with smaller-scale, livable, townhouse-style developments—is reduced from \$500 million in fiscal year 1995 to \$280 million in fiscal year 1996. I know this program is an important priority for both the Chairman and Senator Mikulski; this funding reduction would severely hamper PHA revitalization efforts just as the program is hitting its stride.

Funding for the Economic Development Initiative—which many Mayors believe is the most useful federal tool for creating jobs and leveraging private sector investment in inner cities—has been reduced from \$350 million in fiscal year 1995 to no funding in fiscal year 1996. HUD has forged a powerful combination between flexible EDI grants and Section 108 loan guarantees to help communities fund neighborhood food markets, retail and manufacturing centers and start-up loans for disadvantaged entrepreneurs. This effort should be continued.

Funding for incremental housing certificates—which remains HUD's principal tool for addressing the unmet, worsening housing needs of low-income families—has been largely eliminated. H.R. 2099 as well as last year's rescission bill have broken a 20-year bipartisan commitment to fund the sole

housing program that gives people a choice of where to live. That decision should be reversed.

The bill also contains harmful riders that would transfer HUD's fair housing responsibilities to the Department of Justice and eliminate Federal preferences in the Section 8 certificate program.

Groups as diverse as the National Fair Housing Alliance, the National Association of Realtors, the National Multi Housing Council, the Leadership Conference on Civil Rights and the Department of Justice have opposed the transfer of HUD's fair housing office. These groups recognize the particular expertise in education, conciliation and outreach that HUD brings to its fair housing mission—expertise which the Justice Department does not have and does not want to gain.

The reforms eliminating Federal preferences in the Section 8 program are also not justified. These changes could result in converting a housing program that is carefully targeted on serving very low-income families with the worst housing needs into one that serves moderate income families with minimal need for such assistance. Section 8 needs to be fixed; recent incidents in Baltimore and elsewhere show that the program is leading to a concentration of poor residents in some communities. But the elimination of federal preferences is not a solution tailored to the problem.

It is clear that these differences in funding and policy must be resolved before a HUD appropriations bill is acceptable to the Administration. I believe that can be done.

As I have often said, this bill contains many positive revisions to existing HUD programs. You have done a remarkable job—in public housing, in low-income housing preservation, in multifamily restructuring, in property disposition, in Section 202 and in other areas—of moving forward progressive, far-reaching reforms. These reforms are essential to ensure that programs can work within the funding levels established by H.R. 2099. Yet they are also the right thing to do and represent a pragmatic, bipartisan approach to what works for housing and neighborhoods.

Let me be specific. Your legislation adopts and refines many elements of HUD's proposal to transform public housing.

It would help alter the whole dynamic of public housing by letting local PHA's favor the admission of working families and changing current rent rules to encourage working families to remain in and move to good public housing. It would also give HUD broad powers to test new ways to link public housing residents to jobs and self-sufficiency.

It would help transform the physical landscape of public housing by repealing the rules requiring one-for-one replacement of demolished units, giving local agencies the flexibility to use modernization funds to replace demolished projects and streamlining the public housing replacement programs.

It would help impose market discipline in public housing by requiring PHA's to convert their most distressed stock to vouchers and empower HUD to order the demolition of non-viable developments.

These provisions are needed to help PHA's survive in a fiscal year where operating subsidies have been cut \$100 million and capital funds have been cut over \$500 million. Yet they also reflect a remarkable bipartisan consensus on what is wrong about public housing and what is needed to fix it.

Your legislation also takes the first steps to bring the project-based Section 8 inventory under control. It is now clear that the economics of providing project-based Section 8 rental assistance have become untenable. Certain new properties receive more federal assistance than necessary to maintain them as decent affordable housing, thus draining scarce tax dollars. It is not unusual to find rents at Section 8 properties far above local market rents for comparable apartments. Other, older developments have fallen or may soon fall into serious disrepair, causing problems for residents and neighborhoods alike.

Your legislation helps set the stage for a comprehensive restructuring of this multifamily portfolio by renewing expiring Section 8 contracts for one year, capping future assistance at local fair market levels, and providing a demonstration to test the feasibility of restructuring the mortgages on oversubsidized properties.

Your legislation also gives HUD new authority to streamline the multifamily property disposition process and more flexibly administer the Section 202/811 programs, which provide housing for the elderly and persons with disabilities. Without these powers, the funding levels in these accounts would be insufficient to carry out these activities at the Congressionally intended level. In the property disposition area, that will mean an explosive growth in the number of properties the Department is forced to hold in its inventory—costing taxpayers and residents more money and negatively impacting neighborhoods and residents. In the elderly area, failure

to provide the additional flexibility that will mean fewer units of Section 202 housing constructed.

Finally, your legislation would overhaul the wasteful and expensive 1990 program designed to preserve FHA's older insured inventory. Your bill strikes an appropriate balance between the owner's right to prepay, the need to preserve valuable affordable housing (particularly via sales to new nonprofit owners) and the need to protect residents from being displaced. Your bill also provides the funding necessary to carry out most of this reformed initiative. The money and the policy are fundamentally intertwined—without one, the other is ineffective.

It now appears that the Congress will pass a continuing resolution that will fund HUD and other agencies until March 15th. HUD program funding will be set at the levels contained in the conference report for H.R. 2099. However, with a number of exceptions, the programs will be governed by fiscal year 1995 terms and conditions, not the administrative provisions contained in this year's bill.

This would be an improvement from the continuing resolutions that have governed HUD to date. The current and prior continuing resolutions have not recognized the unique funding needs of many HUD programs—which because of contract expirations, operating increases and program timetables—vary significantly from year to year.

These continuing resolutions have generated short-term funding levels that, when compared to the VA/HUD bill, are \$2.2 billion lower for section 8 contract renewals and \$300 million lower for public housing operating subsidies. These funding levels, if sustained, would have dire consequences for low-income residents and public housing agencies across the nation.

Yet the proposed CR suffers on three counts. First, it will, by its very nature, impede the ability of the Department and its network of housing providers to carry out our programs in a timely and effective manner. Applications and awards for competitive programs will be delayed. The uncertainty of funds, the uncertainty of program guidelines makes it very difficult for HUD and the national network of homeless providers, nonprofit sponsors of elderly housing, PHA's and others to proceed in an intelligent fashion. To minimize potential delays, we may shortly issue Notices of Fund Availability announcing guidance for awards but noting that awards are contingent on further action by the Congress on fiscal 1996 appropriations.

A second shortcoming of the proposed CR is that it relies on H.R. 2099 as the basis for HUD's fiscal year 1996 appropriations. As I have already discussed, that leads to an underfunding of EDI, severely distressed public housing and incremental certificates.

The final shortcoming of the proposed CR is that it incorporates only some of the positive program reforms that are part of H.R. 2099's conference report. We are currently analyzing the proposed CR to discern more carefully which reforms are in and which reforms are out. It appears that the negotiators have attempted to include only those reforms that generate explicit savings. That is too narrow a filter and needs to be corrected.

In conclusion, H.R. 2099—and the proposed CR to some extent—attempts to conform HUD policy with the reality of reduced HUD funding levels, an essential exercise at a time of severe fiscal constraints.

As we proceed, I am hopeful that whatever legislative vehicle eventually serves as HUD's full-year appropriations—a revised H.R. 2099 or a government-wide continuing resolution—this linkage between funding levels and program reforms is retained.

Thank you again for the opportunity to clarify HUD's position on this important legislation. I remain available to answer any questions.

#### ANNUAL CONTRIBUTION CONTRACTS

Senator BOND. Thank you very much, Mr. Secretary.

My first question was going to be to let you expound upon the problems faced by the local housing authorities who do not get the flexibility and do not get the money. That is sort of a double hit, but you have addressed that very well. I think you covered that very well.

Let me touch on a number of other problems. Mr. Richard Gentry, president of NAHRO, will be testifying later in the hearing. He pointed out that local housing authorities are required to sign an annual contributions contract as a condition of receiving funds. He

points out that committing to these contractual obligations is very difficult with the current funding uncertainty and pending changes in Federal requirements.

Is there anything that the Department can do, delaying the requirement for these ACC's? Is there some way they can get around it so they can get working on their programs?

Secretary CISNEROS. Yes, sir; it is my understanding that we are revamping the way the ACC works now in order to give the housing authorities the ability to exercise what flexibility they can, so we are not operating the ACC's as we would in a normal year.

Mike Janis, General Deputy Assistant Secretary for Public Housing, is here. He is an award-winning civil servant who knows the public housing program backwards and forwards, and if you would allow him to join me here, it might be instructive if he could add some thoughts.

Mr. JANIS. Thank you, Mr. Secretary.

Mr. Chairman, Acting Assistant Secretary Marchman and some of us met with industry group representatives to discuss this issue. We had proposed a revision to the ACC with a deadline that I think was ending this month. The Acting Assistant Secretary agreed very, very shortly after hearing the interest groups' concerns mainly around an uncertainty of funding levels, lower funding levels, to postpone the revised ACC.

We are going to work together with the industry groups over the next 60 days in a consultation period, and then after that we will go into about a 6-week time period of revising and looking again at the annual contribution contract to mutually come to a point perhaps around June 30 when we would have a revised ACC for housing agencies' consideration.

The annual contribution contract has been an issue of housing authorities and HUD wanting for a number of years to revise that to reflect more of what is happening, whatever is happening in a current State.

Given the uncertainty that we find ourselves in now, we feel, and we agree with the industry groups, that we have to go into this consultation.

Senator BOND. I would hope by 60 days we might have something passed.

Mr. JANIS. Me too.

#### MARK-TO-MARKET

Senator BOND. Those things are never easy.

Mr. Secretary, in the vetoed appropriations bill, we did provide authority and funding to begin a demonstration of strategies to restructure the expiring high cost multifamily subsidy arrangements, the mark-to-market demonstration.

This is one of the toughest things. This is an area that I think has all of us scratching our heads. We think it is critical that we start trying to figure out what will work so that owners, residents, Congress and the Department can see what works and get a better understanding of how this inventory could be managed.

Are there things that you can do? What are you doing now to prepare for the demonstration, and what progress have you made in considering this?

Secretary CISNEROS. Again, I want to get you the most specific timely response possible, so I am going to ask Helen Dunlap to come up here, but while she does, let me just repeat what I said earlier.

From the beginning of your tenure as chairman, you have said to me that the most serious problem the Department confronted—Stephen did a paper for you, I think, in November 1994, when it would become clear that your responsibilities would increase, that the pressing problem was the cumulative effect of the renewals of section 8, and this issue of the oversubsidization of private assisted housing drives that cumulative effect. We have to solve this problem.

There is not an easy way to do this. We think we have found one way. It is not attractive in some respects. It has got tax issues, it has resident displacement issues, and so forth, but this mark-to-market strategy is the only way we can think of to get a handle on this meaningfully, and Helen's been the key person working this for the last year.

Ms. DUNLAP. Thank you, Mr. Secretary.

Mr. Chairman, in response to your question about what we are doing to prepare for what we hope will be the ability to implement the demonstration, I would suggest three things.

The first is that, as your staff is certainly aware, we have begun a dialog—I call it a giant conversation—with the housing community about the long-term potential avenues for addressing the problem that you and the Secretary have been discussing.

That is not the demonstration per se. That is the larger and longer-term process.

The second is that we have received and begun individual conversations with both project owners and constituent groups about how we might implement specifically the demonstration as soon as we have that authorization, and begun to identify properties in portfolios that would fit within the context that was prescribed in the appropriations bill.

The third is, there are areas within existing law where we can practice some of the basic principles not within the insured portfolio because we are not allowed to do that legally, but within the HUD-held and HUD-owned portfolio, where we already have Department responsibilities because there has been a default on the mortgage, or we own the property, and we have begun—one example of that is that we selected recently three State agencies to participate in a demonstration of the sale of HUD-held subsidized mortgages through a negotiated sale.

Two of the States are represented here, Missouri and Maryland. The third State was Pennsylvania.

While we will not be demonstrating all the principles of how we deal with the long term, we certainly see that as an opportunity to begin the process of using partners, that is, State agencies, to work through the issues of the portfolio.

So those are some of the things we are doing.

Senator BOND. Thank you, Ms. Dunlap. You certainly have a nose for taking on the interesting assignments.

Ms. DUNLAP. I have noticed. If I had it to do over again, I might have made another choice.

Senator MIKULSKI. And maybe you feel that way about your committee assignments.

Senator BOND. I cannot tell you how Treasury and the Postal Service looks in retrospect. [Laughter.]

Let me just ask a couple of brief questions on the CR and the conditions.

Mr. Secretary, the previous CR had a funding level of \$2.5 billion, \$300 million less than the vetoed measure. The CR passed by the House last night will provide the full \$2.8 billion. A number of the housing authorities began their budget year on January 1. Others will start in April. How have these been handled by the Department?

Mr. JANIS. Mr. Chairman, fortunately, at the time that we made the first quarter distribution of operating subsidy we were using 90 percent of eligibility, and we had assumed a \$2.8 billion appropriation level. I would like to take credit for that. I think it was dumb luck, probably.

Senator BOND. Beats the heck out of prior planning, in my view. [Laughter.]

Mr. JANIS. Truly.

So we are fine for the first quarter at the \$2.8 billion level.

Our next second quarter of operating subsidy, in the first part of March, the first 2 weeks of March we would be allocating those funds. We would allocate those at 90 percent of eligibility.

Our problem is, is that if and when a CR expires and we have another CR, heaven forbid, what the end game appropriation will be. If we wind up not knowing what the end game is at various times, and we have appropriated based upon a quarter assuming 90 percent eligibility, we would have no choice but in future quarters, to a housing agency, to average out what their subsidy would be.

So if they were funded at 90 percent for one-quarter and then we were cut in a future CR at 70 percent, we would have to even go further in the next quarter to average out their funding level at where we are in a continuing resolution.

It is a very, very difficult, very onerous program management task, but that is nothing to what it would be to a housing agency not to know what its' expected yearly budget would be. Certainly the 10 percent reduction of operating subsidy is a concern to us in terms of the housing agencies' ability to operate as they should, but added to that the unpredictability of what the entire year funding would be, would be again a nightmarish situation for housing agencies.

Senator BOND. I can see why Herb is leaving.

#### CDBG AND HOME FUNDING LEVELS

Mr. Secretary, two quick questions. CDBG and HOME need to know a final funding level. The CR provides a level of funding in the vetoed appropriations bill. Will this enable you to go forward?

Secretary CISNEROS. It is essentially the same problem as others have discussed in other areas. The uncertainty is a problem. Where we have a greater problem, even, is in the homeless programs, which are applications. CDBG and HOME are formula programs, but the homeless are application formulas.

We put out notice for applications not knowing what the funding level, the award level can be, so the best we will be able to do is do the competition making clear that awards of funds are contingent upon final resolution, and then hopeful of what we can afford when the time comes to make the awards.

Senator BOND. Final question. We are certainly not thrilled with the continuing resolution approach. They have lots of problems, as we have already mentioned. They just provide temporary operating authority. We know why that does not work in many of these areas.

We have not yet had the telephone calls to begin negotiations that you and I discussed in November. It would be very helpful. You have been down to the White House, I guess, maybe talked with the administration. Can you give us any news on whether the administration might be willing to work with us toward getting an appropriations bill that could be enacted for the year?

Secretary CISNEROS. I can tell you, Senator, that having discussed personally with the President the issue of a balanced budget resolution, that he definitely wants to have a budget deal. He has stipulated his bottom line concerns that a budget package this year needs to include a change from the present congressional position on Medicare cuts. The policy issues in Medicaid cannot be changed as dramatically as are proposed. The environment cuts he feels are too severe. Educational cuts are too severe, and the EITC.

It is a very clear five-point line that he has laid down.

We have been operating under the assumption that if a larger budget deal—as you said to me once, that is above either of our pay grade, but if a larger budget deal were struck, that it would quickly address 1996, and that the appropriations bills for 1996 would follow in what one person described to me as a nanosecond.

So I am hopeful, still, that a budget agreement can be reached. I, like you, I have not had any discussions with the White House in the last few days, but I, like you, read the newspaper articles that talk about possibilities of agreeing on some things that can be agreed upon and so we will see what course that takes.

I do not know what the implications of a partial budget deal would be for the appropriations. I am hopeful that that could possibly include 1996, and that then an appropriations bill could follow. However, what makes this difficult in this subcommittee is the funding level for EPA and, of course, National Service and CDFI, so within the power of this committee are three of the sensitive programs, two that are in the President's listing of most critical issues, EPA and National Service.

So I think the answer to your question really revolves on two things, (1) the big budget deal, and (2) whether EPA and National Service can be addressed within this subcommittee.

Senator BOND. Well, what I gather is, I should not sit by the phone this weekend. We have told everybody around we are willing to talk about the things within our jurisdiction, but I guess I will not hang out at the phone.

Senator Mikulski.

Senator MIKULSKI. Thank you, Mr. Chairman.

I think what Secretary Cisneros has just said about the possibility for this appropriation to move forward really does hinge on the

EPA funding, which I know we will go over this afternoon and perhaps identify areas that we could compromise on between the President's position and where this conference finds itself without compromising public health and safety, and I think that is where we cannot compromise, so we would not want to compromise on a goal, but let us look at whether we can compromise on the funding.

Also, the issue of National Service I think continues to be a very severe detriment to passing the VA-HUD bill. What I am concerned about is that so much of the decisionmaking in your party is being done in the House, and we would look for better communication between, of course, the White House and the Congress on these matters—I know that you and Mr. Lewis feel very strongly about the need for improved communication, and I would support that—but also, I think the House needs to work with us on how we could also achieve a compromise on National Service.

I believe our colleague, Senator Grassley, has raised very important points about National Service that gives him pause, and quite frankly gives me pause. With now Mr. Wofford as the head of National Service I believe a desire to work out those concerns, on how better to use America's resources and yet help young people be able to reduce their student debt by serving in their community, I think are goals we could work on.

So I think those are the two issues.

I now come back to the Cisneros conversation. On page 12 of your testimony, Mr. Secretary, you raise an issue about uncertainty that gives me an enormous amount of concern. On page 12, we talk about the uncertainty of funds, the uncertainty of program guidelines make it difficult for HUD and the national networks related to the homeless and the nonprofit sponsors of elderly housing to proceed in an intelligent fashion.

In my home town of Baltimore and throughout the Nation, I see what nonprofits have done to help the elderly. I live exactly across the street from housing for the elderly that has been worked with a church-based program, shelters in Baltimore run by Associated Catholic Charities, church-based organizations. What could we tell them today about their ability to meet not only the mission of HUD but their mission of the heart to meet the concerns for the homeless and the elderly?

Secretary CISNEROS. Senator, let me, if I may, en route to answering your question, just make one brief diversion and pick up on your point about National Service.

Just yesterday, I received a call from David Gilmore, the court-appointed receiver for the D.C. Housing Authority, and he said to me, I want you to come with me and see what the National Service volunteers are doing in the District of Columbia, and he asked me to join him on a Saturday and go to see the phenomenally good work that these folks are doing.

I have not had an opportunity to go to a National Service site, although I know they are working in a number of HUD places, but it may be of some interest to the committee, as you deliberate about what to do about National Service in a year-long appropriation, that there is a site right here in our backyard that apparently is just the classic, the best use of both the talents of the people and the impact that they can make in the community.

So I just pass that along in the event that you would like to see it, because I know this is a matter of deliberation for you yet ahead.

What we can say to homeless providers and to nonprofit sponsors of elderly housing and others is that we are going to be running the competitions, and we are going to do the absolute maximum that we can to get things lined up so that as soon as we have a sense of what our year-long situation is, we can unleash the funding.

That is all we can say, because all we can see to is March 15.

Senator MIKULSKI. So you are not issuing money, in other words. You are accepting the grants.

Secretary CISNEROS. We are accepting the applications.

Senator MIKULSKI. Yes; and you can certify—

Secretary CISNEROS. And process them.

Senator MIKULSKI. That they are eligible, like Associated Catholic Charities, or the Associated Jewish Charities project for the elderly.

Secretary CISNEROS. Correct.

Senator MIKULSKI. But you then cannot issue the funds to operationalize your certification.

Secretary CISNEROS. We have no appropriation beyond March 15.

Senator MIKULSKI. Is that essentially the bottom line?

Secretary CISNEROS. That is correct.

Senator MIKULSKI. You can certify them as eligible, that their project is both desirable and meet guidelines, but they will not get the money.

Secretary CISNEROS. The circumstances of the last months, the shutdown, the snowstorm, and now the uncertainty of a CR, will inevitably delay the grants for this year which would be going out in the spring and summer months because of the timeframe we spent on these matters.

Senator MIKULSKI. Is that for new projects or existing projects?

Secretary CISNEROS. That is new projects.

Senator MIKULSKI. If you are a project serving the homeless, like a wonderful program for women in Maryland called My Sister's Place that has already been certified, given funds, operated by Associated Catholic Charities and so on, would they continue to be—I use that as an example, not a specific.

Secretary CISNEROS. Both existing entities seeking further funding and new programs applying for the first time are in the same boat, where they are competitions.

Senator MIKULSKI. But that would be further funding. If they exist, they will continue to be funded at existing levels, or do you not know?

Secretary CISNEROS. For existing funding that does not require an application they will be funded at existing levels.

Senator MIKULSKI. But anything with a new application to either expand services or create new services, they just have to wait.

Secretary CISNEROS. Correct.

Senator MIKULSKI. That is pretty tough, particularly in this weather. My gosh, I know everyone has been worrying about what is happening.

Secretary CISNEROS. I will tell you what is very tough is that our programs are working.

I was just in Boston last week, and I saw a city where homeless programs are working and actually, measurably reducing the amount of people in the street. It is a shame to cut into that effectiveness.

Senator MIKULSKI. Well, let me raise an issue, though, about programs that I think are not working and the consequences of the CR on our reform efforts. As you know, I do not believe that section 8 is working. I believe that our whole housing policy neither rewards work, promotes family stability, nor ensures that receiving housing subsidy is not a way of life, but it should be a way to a better life.

Now, we have all been working on reforming that to change the programs. I know, Mr. Secretary, you have no idea how—as the Senator from Maryland and a former city councilwoman from Baltimore—how the consequences of these programs fill me with grief, that in public housing I have worked very hard as both the chairman and with this colleague to modernize public housing.

Three endeavors in Baltimore, Gilmore Homes, a garden type, Perkins, a garden type, eight blocks from my house, O'Donnell Heights Housing Project, have all been modernized, but we continue to recycle the same cultural poverty attitudes, so next to O'Donnell Heights is one of the lowest performing public schools, Perkins. Perkins has brought a whole new—we modernized Perkins, but the crime rate increases as the doors open.

I am filled with grief that these programs are not working because we continue to reinforce the culture of poverty. Section 8 has no controls over bad landlords, does not help good landlords get rid of bad tenants, and again with section 8 it is not focused on rewarding work.

I am filled with grief that an effort that was made to tear down Lafayette Homes has now resulted in the destabilization of an adjacent neighborhood.

Now, having said that, and I do not know if it is due to our policies, the incompetency of a local HUD agency, or what. I am not going to finger point, but now where we are is, we need to make sure that what we do makes a difference in the lives of the poor and the neighborhoods that welcome the poor, and that it is not a destabilization either of poor families or those neighborhoods.

Now, where we find ourselves with the 1996 funding and 1995 rules, can we go ahead with those reforms that we think will help the poor, change the culture of poverty, reward good landlords, and families that are trying to help themselves, and move to be sure that a housing subsidy is not a way of life, but a tool to a better life?

Secretary CISNEROS. Senator, you have put your finger on some of the most pressing problems we have and some of the areas where we have tried to respond.

The answer to your question is, these are provisions in the 1996 appropriations measure or future authorizing measures, neither of which are operative with this CR, so we will not be able, in this timeframe, to do the things that you have just admonished us to do until we get some of the policy changes that are in those appro-

priations measures. It just drives home the importance of getting this appropriations measure passed.

Senator MIKULSKI. So that what you are saying is that we keep the same old programs going—

Secretary CISNEROS. One-for-one replacement.

Senator MIKULSKI [continuing]. That reinforce the culture of poverty.

Secretary CISNEROS. The old preference rules.

Senator MIKULSKI. And the rewards that rewarded the dysfunctional rather than those that were trying to help themselves get a job, be in job training, the personal empowerment initiatives.

Secretary CISNEROS. That is the significance of this appropriations bill.

Senator MIKULSKI. What about the significance of the fact that section 8 has often been a destabilizing force, again, and also the whole issue of no controls over the bad landlords and no rewards to help the good landlords be able to move out tenants that refuse to comply with good tenant practices?

Secretary CISNEROS. Senator, we are proposing in our continuing reinvention some dramatic improvements in the way section 8 works to reduce the concentration by including a neighborhood assessment, not just a property-based assessment, unit assessment, but a neighborhood assessment to deal with the impaction question.

We are proposing preferences in section 8 so that families that have some track record of work experience and indications that they can work get preferences in section 8, and other measures that we would propose to make the section 8 program work better, including different administrative structure on the ground than some of the existing housing authorities that managed section 8, some regional implications.

I am going to share with you, as we depart, our continuing proposals, and in there you will find some very dramatic things that came out of our discussions on section 8.

Senator MIKULSKI. Well, Mr. Secretary, I understand, then, that your ability to bring about these reforms are now being shackled because your hands are being tied because of the continuing resolution.

Secretary CISNEROS. That is a correct statement.

Senator MIKULSKI. Is there any way that voluntarily State and local housing authorities could implement these changes, because you see, it is not only a rule and regulatory change, it is a change of the culture of those who administer the program.

Secretary CISNEROS. We will explore the maximum that can be done under the existing rubric of law to get that kind of voluntary effort, education of housing authorities, share with them the methods and best practices of others—for example, on evictions of people from public housing they have considerably more latitude than many are utilizing.

I was in Toledo just a couple of days and saw how they are actually getting people—the President's call for one strike and you are out—they are doing it in Toledo. Others could do it, too, but they do not do the maximum under the law as it allows today. So we will explore the maximum that they can do, but many of these are

fixed in old statutes that your appropriations bill allows us to change, and we need that.

Whether it comes in the appropriations bill, or whether it comes in an authorizing bill this year, we need that flexibility and that reconception.

Senator MIKULSKI. Well, I feel that the first rule of Government is that it should do no harm, and I hope that whatever we do in the budget, we do no harm to the poor, the homeless, and to the elderly, but I also hope that we stop doing harm to neighborhoods—neighborhoods that are then affected either by public housing or by section 8, because I think that we are maxing out on the support of those programs because of the old rules and the old cultural attitudes that created a sense of permissiveness and a reward for the dysfunctional.

Secretary CISNEROS. Absolutely correct.

Senator BOND. Thank you, Senator Mikulski. I know, Mr. Secretary, it is no surprise to you, but to the extent that there has been negotiations with respect to the CR, they have not been with this committee, and the elements in this bill have just been brought to my attention today.

I had left to take my son for his birthday dinner last night when we received a copy of it, which was very generous, I thought.

Secretary CISNEROS. Of the CR?

Senator BOND. Of the CR. Let me say that the issues you raised, the administration's concern about national service and EPA funding, are precisely the issue we have been willing to discuss with the administration since last November. The White House does have to tell us what funds will be cut within our appropriations bills to fund these priorities because we are still faced with the overall funding constraints.

As for working with our good friends and colleagues in the House, this is the last continuing resolution or appropriations in this session that will pass the Senate without substantial Senate involvement.

And with that, my thanks, Mr. Secretary, and next we will hear from a panel of organizations engaged in housing and community activities.

Do you want to make a final comment?

Secretary CISNEROS. Mr. Chairman, just a quick sentence. As you know, we have tried to listen carefully to what both majority and minority Senators have said to us, and House Members, about the direction of this Department, and our reinvention effort in 1995, which you were immensely helpful in guiding and shaping—and much of what we proposed as a reinvention is in this appropriations measure or in other related bills you have been part of—continues. We are doing it because we think we have to reshape the Department.

So even in this time of great uncertainty about budgets, we are launching forward with a continuing 1996 work at the margins to continue the improvement.

I do not know what the legislative chances for it are, but much of the philosophy that Senator Mikulski just articulated—where people should work, and we want to create positive incentives and a framework of rules where if people do not perform they are not

entitled to public benefits—is in this document that I want to leave with you. It is a draft, but I would like your input and study by your staff and continuing dialog on this.

Senator BOND. We appreciate that, Mr. Secretary, as well as your cooperation. We do have a hand in some authorizing legislation that is trying to get there. One way or the other we are going to get there, but we have a long way to go, and my thanks to you and your staff for your cooperation.

Senator MIKULSKI. Mr. Chairman, as you called for a panel of public witnesses I am going to have to excuse myself. I have been invited to participate in a leadership meeting where perhaps we can arrive at a consensus on welfare reform.

Senator Daschle has asked me to meet with him, as the only social worker in the Senate, to talk about a proposal Senator Dole has offered. Then perhaps we could come to an agreement and move welfare reform.

I would like to participate in that meeting, and I will be back. You will be hearing from Ms. Patricia Payne, the secretary of housing for Maryland, representing NAHRO. As you know, Maryland has had a longstanding tradition of excellent secretaries of housing.

Pat, I am sorry I will not be here, but if we can get welfare reform solved in a way that it is neither permissive nor punitive, I think it is worth me leaving. I will catch up with you later.

You will like hearing from her.

#### SUBMITTED QUESTIONS

Senator BOND. Thank you, Senator. We will protect your interests.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

*Question.* What is the impact of the Government shutdown having on Indian Housing Authorities?

What percentage of their operations are Indian Housing authorities being funded under the current continuing resolution?

Answer. 90 percent

*Question.* Is this sufficient for them to manage their operations?

Answer. No. The 10 percent reduction has a serious impact on all IHA's operations. IHA's will be forced to operate without adequate staff and training. Also, they will be unable to provide the necessary maintenance to their housing inventory.

*Question.* What is happening to the development program for Indian Housing authorities under the current continuing resolution?

Answer. To date, the lack of a budget for Indian Housing Development has not had a significant impact on the ability of housing authorities to develop units. Normally, new project awards are made in May or June after which housing authorities begin their design process anticipating construction start the following year.

*Question.* Are there any delays that may cause serious setbacks for the IHA's in places like Alaska where the building season is short?

Answer. No.

If, however, full authorization does not occur by early May, or if piecemeal continuing resolutions prevail throughout the year, there will be delays in approving new projects which will ultimately result in a set-back in construction starts. This concern will be particularly acute in cold weather areas where site construction must be completed before the onset of bad weather.

*Question.* What steps is HUD taking to assure that no setbacks occur and that the development process continues?

Answer. The Department is currently processing the Notice of Fund Availability for the Indian Housing Development program to enable housing authorities to submit applications anticipating full funding by Congress. With applications in hand, the Department will be better prepared to approve housing applications when appropriation amounts are made final.

Question. Are there any IHA's that have modernization projects being halted, midway, because HUD has no appropriation?

Answer. No

Question. What is HUD doing to make sure that projects are not idle?

Answer. No action is necessary at this time. IHA's have the ability to proceed with their modernization including the drawdown of funds.

Question. If there are projects that are idle, have HUD officials analyze the costs associated with bringing these projects in compliance with appropriate timelines?

Answer. Not an issue.

Although no projects were halted or were idle during the shutdown, there may have been IHA delays because of the inability to receive technical assistance from the Area Offices of Native American Programs or receive approval of contract documents, when necessary, due to the unavailability of staff. At this time, we are not aware of any time extensions needed to complete projects based on the above. The current continuing resolution will have an impact on funding. IHA's will not be able to receive funding in the same timely manner as in the past. For many IHA's, modernization will have to wait until next summer because of weather conditions. This may delay programs in process, especially under the Comprehensive Grant Program where IHA's have developed five year plans based on formula funding.

## NONDEPARTMENTAL WITNESSES

### STATEMENT OF RICHARD C. GENTRY, EXECUTIVE DIRECTOR, RICHMOND REDEVELOPMENT AND HOUSING AUTHORITY, RICHMOND, VA

#### STATEMENT OF CHRISTOPHER S. BOND

Senator BOND. I do want to call forward Richard Gentry, president of the National Association of Housing and Redevelopment Officials, and executive director of the Richmond, VA, Redevelopment and Housing Authority.

Joining him is Michael Bodaken, president of the National Housing Trust, which provides technical assistance to nonprofit purchasers of multihousing developments, and as Senator Mikulski said, Ms. Patricia J. Payne, the secretary of housing and community development for Maryland, representing the National Council of State Housing Agencies.

Lady and gentlemen, we appreciate your willingness to join us on short notice to give the perspective from the real world on how the failure to enact regular appropriations bills affects your agencies and the housing and community development activities.

You have seen several decades of growth in administrative and statutory regulation of the activities, along with increases in Federal expenses.

Now, at a time when the Federal deficit prohibits further contributions and maybe even substantial reductions, I think the policy changes need to come along with those, and the veto of the bill was a double whammy, as the Secretary has already pointed out. You get less money but the same level of regulations.

I would appreciate it if you will submit for the record and give my colleagues on the committee the opportunity to read your full statements. I would appreciate it if you could perhaps summarize your statements, and let us begin with Mr. Gentry.

#### STATEMENT OF RICHARD C. GENTRY

Mr. GENTRY. Thank you, Mr. Chairman. It is good to be here again. I appreciate the opportunity.

My name is Rick Gentry, and I am the executive director of the Richmond, VA, Redevelopment Housing Authority, and I am here today in my capacity as president of the National Association of Housing and Redevelopment Officials.

NAHRO is a national organization representing more than 9,000 professionals who administer the housing and community development programs funded by this subcommittee. NAHRO's members represent more than 1.7 million units of public housing, over 1 million units of section 8 certificates and vouchers, and some 84,000 other units of assisted housing.

In addition, NAHRO's community development redevelopment members, which includes Richmond, serve more than 200 million people with programs to provide affordable housing and livable conditions throughout the country, so we do represent a sizable slice of the Nation and of a preponderance of the programs and the people affected by the programs that are funded by this committee.

I also might point out that the programs that we administer serve the Nation's poorest and most vulnerable populations, and ultimately the people we serve suffer the most from this crisis. These are the people we must keep in mind as we discuss the impact of the continued stalemate on the programs.

If the Congress wants to operate on a series of continuing resolutions—and I kidded your staff person yesterday about having quarterly resolutions on appropriations instead of annual appropriations now—our agencies will attempt to adjust as best we can as long as program funds are part of these resolutions, but I need to point out that if Congress and the administration continue to embark on this type of approach, then the daily operations of our programs will function much the same way, which will cause a good bit of programmatic and human problems in our local communities.

I know that the CR did pass yesterday on the other side of the Hill and will pass today on this side, and that is a welcome relief, but it is a short-term relief, and I would strongly encourage that either the enactment of H.R. 2099, the VA, HUD and Independent Agencies Appropriations Act of 1996—failure to enact that would be devastating potentially for housing and the community development agencies throughout the country.

We believe that, although it is a significant reduction in money from previous years, that given the temper of the times and the ongoing issues and problems up here, it was reasonable for our membership.

And I might point out that if that bill were to have passed, or something similar passes in the future, it represents only about 90 percent of the funding for operating subsidies, which is the mainstay for public housing authorities throughout the country, and this also represents, at best, the third year in a row that we have received less than promised and mandated by the Housing Act of 1974, which is funding to cover our continued operations.

We lost 5 percent last year, 4 percent the year before that, some 10 percent, at best, this year, so we are already being shaved mightily in the amount of moneys that we need to operate our programs, and eventually it will show. I will give you an example why.

Earlier this month, NAHRO hosted a meeting of our national leadership here in Washington, and during the course of that meeting we completed a very quick survey of our membership to determine the impact of the ongoing budget problems, and what we determined was that although there are a few of our public housing and section 8 programs that could survive for some time with a continued problem, there are very few of us who could sustain a level of service for much longer than 1 to 6 months. That represents about the amount of time that each of us carries operating reserves.

As a matter of fact, up until some stop-gap legislation last year, there is a restriction on the amount of operating reserves that a

housing authority can carry which at maximum will cover about 6 months of operations, so that we do not have the kinds of ongoing funding on-hand to carry us if a continued appropriation problem continues to exist.

The result of that is that there will be a great number of troubled housing agencies created by the ongoing budget impasse, and I might just spend a minute to point out how the financial construct works for our industry as delineated by the Housing Act of 1974.

Each housing authority is instructed by HUD on who is eligible for admission to public housing, in what order we accept and admit families into public housing, and how we charge rent to families admitted into public housing. We then are promised by the Housing Act of 1974 that the difference between what rent is paid by these families, as determined by the Feds, and our expenses, as determined by a mandated HUD formula, the difference would be covered in an operating subsidy.

There are no other sources. We are prohibited by law from raising rent to our tenants. We are prohibited by law from altering the mix of people we bring in. We are promised by law the difference in subsidy.

Now, for the third year in a row, we are not going to get that, and with the ongoing budget impasse, it could be much worse.

According to the public housing management assessment program standards that, Senator, you were instrumental in developing some years ago, it is shown that something like 97 percent of the agencies in the country are either standard or high-performing agencies. Only a small number are troubled.

What will happen very quickly, and it will occur in calendar year 1996 if the budgetary impasse is not resolved, is that there will be wholesale creation of troubled agencies out there. It will result, because we will stop spending money on maintenance, which is typically the largest controllable part of our budget—our properties will begin to get into real terrible condition, and we will eventually move beyond that to being unable to meet bills that come in, which will result in potential defaults, and the Secretary having more than just Chicago to worry about.

#### PREPARED STATEMENT

So we are on the verge of some significant problems, caused not by the performance of people in the field but by the nature of the promise, caused by the relationship occasioned by the Housing Act of 1974, on where the money comes from, and how it comes.

I will be glad to respond to any questions you might have, sir.  
[The statement follows:]

#### PREPARED STATEMENT OF ROBERT C. GENTRY

Good morning, Mr. Chairman and members of the subcommittee. My name is Richard Gentry. I am the executive director of the Richmond Redevelopment and Housing Authority and I am here today in my capacity as president of the National Association of Housing and Redevelopment Officials (NAHRO).

NAHRO is a national organization representing more than 9,300 professionals who administer the housing and community development programs funded by this subcommittee. NAHRO's members represent more than 1,744,805 units of public housing, 1,090,582 units of section 8 certificates and vouchers, and 83,959 other

units of assisted housing. In addition, NAHRO's community development/redevelopment members serve more than 200 million people with programs to provide affordable housing and livable conditions.

I welcome the opportunity to discuss with you our concerns about the impact this budget stalemate is having on our membership and those we serve nationwide. It is easy for me to say that there is a great deal of anxiety, anger, confusion, frustration and fear in many communities. But these words can not accurately describe the feelings that exist within communities.

The Nation's housing and community development programs we administer serve the Nation's poorest and most vulnerable populations. Ultimately, the people we serve suffer the most from this political crisis. These are the people we must keep in mind as we discuss the impact of this stalemate on programs.

If Congress wants to operate on a series of continuing resolutions, our agencies will attempt to adjust as long as program funds are part of those resolutions. But if Congress continues to embark on this helter skelter approach, the daily operation of housing and community development programs will function the same way causing additional political, programmatic and human problems.

With the exception of agencies funded by the Office of Community Planning and Development at HUD, agencies with January 1 program start dates have received sufficient funds to cover operating subsidies for the first quarter of the year. The current CR also provided enough funding for section 8 contract renewals through the end of January.

It is our understanding that a CR is under consideration, that will provide funds to agencies to cover operating subsidies and section 8 contract renewals set to expire through March. This is welcomed news to the agencies that administer these programs. However, we will continue to be funded at levels below fiscal year 1995 but with the same level of regulatory constraints.

Anything less than enactment of H.R. 2099, the VA, HUD and Independent Agencies Appropriations Act of 1996, would be devastating for housing and community development agencies. In a politically and fiscally charged environment, H.R. 2099 proved to be the best appropriation bill our members could secure that provided a combination of housing and community development program funds and much needed relief from burdensome regulations.

Any extension of funds reduced from even those provided in H.R. 2099 need to include regulatory relief in order for us to sustain the essential services we are providing people.

As we conclude the fourth month of this fiscal year without permanent appropriations, the problems in distributing community development funds are illustrative of the feeling of many of our members. It also raises a number of legitimate issues concerning funds allocated under a CR that Congress must confront as we continue to operate this way.

Because CPD programs are formula driven, HUD is concerned that a continuing resolution will not provide enough funds for it to accurately determine the allocation levels that should be received by grantees. For HOME, there is concern that a community that receives funds as a participating jurisdiction, may no longer meet the threshold demands of the program if a final appropriations bill includes funds at less than the \$1.4 billion approved last year. The locality will be forced to return its HOME funds which could create a variety of legal, political and programmatic problems for—HUD and the local community.

For community development agencies, a number of questions arise: If funds are not allocated, how do communities plan their activities for the year? How can communities enter into agreements with private developers, etc., for housing rehabilitation, new construction, economic development or the other program activities funded with these accounts? What will happen to those non-profits that rely on these funds in the interim? What happens if funds are allocated but in the next few months, communities are told they must return a portion of their earlier allocations?

These questions are truly the tip of the iceberg. For section 8, for example, what assurances do we have that future expiring contracts will be renewed if a series of CR's is our fate for fiscal year 1996? If this stalemate results in reducing terms of these contracts to one year, will it make the program obsolete? For how long can agencies use their project reserve accounts?

Earlier this month, NAHRO hosted a meeting of our national leadership. During the course of the meeting, NAHRO completed a very quick survey of our members to determine the full impact of this budget fiasco. Many agencies stated that they could survive on their section 8 and/or public housing reserves for only a few months at best if necessary. There were a few that could sustain their level of services for much longer period of time, but the majority could only survive for as little as one month to six months.

There are a few other issues that need to be addressed by this subcommittee as this budget stalemate continues. First, I cannot emphasize enough the importance of regulatory relief as we progress through this morass called a budget process. The best example I can use is the Revised Annual Contributions Contract (ACC) that HUD is requesting agencies to sign by January 31.

As the subcommittee is aware, all agencies must sign an ACC as a condition of receiving funds. But the revised ACC commits LHAS to a standard of operation that is difficult to match given the uncertainty that exist this year. NAHRO wants to see the signing date extending to June 30. One of the reasons is very simple. How can HUD expect us to commit to a level of service based on rules and funding that are undetermined at this time?

I am concerned that the budget stalemate could create a prescription for local housing authorities to breach their ACC through no fault of their own. Six months to 1 year from now, Congress can literally find itself with hundreds of "troubled agencies" that were caused by the current budget fiasco. Some housing authorities will be unable to meet the basic requirements of their ACC because the fiscal climate has destabilized their operations. Because of this stalemate, we are forced to use conservative money to play within liberal rules. The two do not mix.

Congress needs to settle its differences over the budget so housing authorities can determine what rules will govern our operations. For example, H.R. 2099 provides much needed regulatory relief while reducing public housing funds. The regulatory provisions within the bill are currently in limbo until a budget agreement is reached. These regulatory provisions establish a certain level of playing field that is different from the playing field established in S. 1260, the Public Housing Reform and Empowerment Act of 1995.

S. 1260 contains targeting provisions and rent restrictions that dictate who can be served and limits how much rent housing authorities can charge. Will the changes within H.R. 2099 govern our operations or will S. 1260 be our guide? Or will the provisions contained in the house version of a public housing reform bill determine the rules governing our programs?

In the interim, we are stuck with a series of continuing resolutions that make planning at the local level almost impossible.

As a former Governor, you understand the importance of a consistent revenue stream to the planning and functioning of a community. The inconsistency of the current situation is simply creating havoc that will become more evident as the stalemate continues.

Complicating our efforts to plan for the next fiscal year, is our inability to get accurate information from Congress or HUD on what we can expect. We receive different answers to the same question from different people on the Hill and at HUD, sometimes during the course of the same day.

In conclusion, I would urge members of the subcommittee to pursue passage of H.R. 2099 as your first strategy. If that proves difficult to accomplish in the current political environment, it is absolutely critical that regulatory relief, in addition to the funding levels contained in H.R. 2099, be part of the continuing resolutions that are passed.

**Senator BOND.** Mr. Gentry, obviously you do not buy the line that I am from the Federal Government, I am here to help you. That is one that does not sell too well.

#### **STATEMENT OF MICHAEL BODAKEN, PRESIDENT, NATIONAL HOUSING TRUST**

**Mr. BODAKEN.** Senator Bond, thank you for asking the National Housing Trust and affording us an opportunity to testify before you here today to discuss the ramifications of an incomplete process and the need for a complete appropriations bill during this fiscal year, and the implications for those who are interested in preserving federally assisted housing stock.

I am Michael Bodaken. I am head of the National Housing Trust, and we serve as a public clearinghouse for nonprofits and residents who are interested in purchasing the stock. We assist Hill staff in trying to discuss policy implications of various legislative proposals, and, in fact, have hands-on technical assistance in approximately seven such transactions in six different States currently.

Senator, I speak with you today about the absolute necessity of what has been articulated earlier today about the need for the legislative reforms that are embodied in the 1996 VA, HUD, and Independent Agencies appropriations bill, particularly those that affect LIHPRHA or the preservation act.

I must confess that my appearance today has a *deja vu*-like quality to it. I would not have thought that I would have come to Washington to appear three times before this committee without seeing a bill enacted, but perhaps as the rules change we all must be flexible.

We all know now that, subsequent to my earlier testimony, subsequent to the passage of the bill, the President did veto it, but there are some important reforms that were just glossed over by the Secretary in his support for the bill on preservation that I want to articulate and make sure are on the record.

No. 1, there was adequate funding for the preservation program, because we demonstrated to the committee's satisfaction that voucherizing out this particular housing stock was both penny- and pound-foolish, and that I think is an important point to be made here, perhaps not well articulated before. That was accomplished in the bill.

Equally important, the committee decided that owners who did not have sufficient value in their homes to really trigger a market-rate rent increase should not avail themselves of the preservation program. That was the wasteful part of the preservation program which was eliminated in part, in large part by H.R. 2099, which is not yet effective per the continuing resolution that was adopted last night by the House.

Third, the committee I think wisely decided to target sales to nonprofit and resident purchasers, because those are long-term committed affordable housing users. Attached to my testimony are letters from Republican Congressmen, Democratic Congressmen, indicating that nonprofit and residential purchasers should be the first in to try to preserve this housing, because they will be able to reduce the cost of preserving stock over the long haul, again something that is in H.R. 2099, not yet law.

And then finally, there was a provision for sufficient vouchers to cover those people who would be displaced if there was going to be a prepayment during this timeframe.

None of the statements I have just made are, of course, embodied in the continuing resolution, and all are necessary for budgetary and programmatic reasons.

But it is never over until it is over, and today I stand with you arguing that the 1996 appropriations levels, that is, for our preservation program, that is a fine thing, but if we are operating under 1995 rules, all of the things that Congress embodied in H.R. 2099 for preservation will be thwarted.

I do not believe that was Congress' intention. I do not believe it was the administration's intention. It is, however, an unfortunate mishap that has caught us in the crossfire, if you will, between Congress and the administration.

The trust represents, as I mentioned, seven resident groups, endorsed purchasers, nonprofits who are purchasing properties in Florida, North Carolina, Virginia, Maryland, Pennsylvania, and

Texas, and in each one of those cases the residents that we work with select a management entity, at least one-third of them are on the board of the purchasing entity, the residents select the consultants, the residents do their own management plan.

In none of the cases I am talking about are we able to go to them today and articulate why we cannot go forward with the purchase transaction.

Senator, it may sound--I do not mean it to sound flip, but a real estate transaction has its own life. It is not dictated by the budget impacts, and the owners who we are working with are frankly very concerned that there will not be a budget deal or a HUD appropriations vehicle this year.

If I cannot say to them honestly that I believe that that will take place, they will walk. The fragile deals that we have been involved in for over 2 years to get to this point will crater, and residents will be harmed, communities will be harmed, and I think the housing stock will be lost.

So I do not mean to paint a total sky-is-falling picture, but I think it is important to articulate that we put together those reforms because of these sales that were coming forward to this point, and they are continuing.

Nothing has changed about the need to preserve that housing. Nothing has changed about the residents' interest in purchasing the housing. Nothing has changed thus far about the owners' willingness to deal with us in good faith, but we are reaching the point where we need to have some articulation of the rules that are embodied in H.R. 2099 to make sure this housing stock is saved and the residents and nonprofits we represent are able to conclude those transactions.

I will close with one thing that was mentioned by both the Secretary and I think will be mentioned later on. The contract renewals for section 8 and the other existing housing stock and part of this stock as well, the postrescission levels I just noted in my notes for fiscal year 1995 were something like \$2.159 billion. The subcommittee and conference reported out today a \$4.35 billion level because of all the units that are up for renewal this year.

Again, the uncertainty and anxiety of both owners, nonprofit owners and for-profit owners of this stock is somewhat imperiled by not knowing what, in fact, is going to take place over the long haul.

#### PREPARED STATEMENT

I know that you agree that nonprofits and residents should not be put in the place we are in. I do not believe anyone in Congress really does, but you have asked me to comment frankly about what position we are in, and I think it is only fair that I tell you that we are between a bit of a rock and a hard place, and we are trying to figure out a way to get out of it.

Thank you.

[The statement follows:]

## PREPARED STATEMENT OF MICHAEL BODAKEN

## EXECUTIVE SUMMARY

Today's testimony covers four discrete areas:

I. Articulation of the Need for (a) Full Funding for LIHPRHA for this fiscal year and (b) the Program Reforms Targeting Sales to Nonprofit Purchasers and Protecting Residents in the Event of Prepayment. Failure to fund the program and adopt the program reforms will inevitably lead to displacement and the loss of thousands of units of affordable housing. The adoption of a "Continuing Resolution" absent both the funding level and the reforms incorporated in H.R. 2099 imperils the ability of nonprofit and resident purchasers to preserve affordable housing at an acceptable cost.

II. Observe that the Abrupt Interruption of the Multifamily Preservation Program Most Profoundly Impacts Nonprofit and Resident Council Purchasers Who Have Spent Thousands of Dollars and Hours to Preserve This Community Resource.

III. Explain Why the Capital Grant Is the Most Cost Effective Means to Preserve this Mixed Income Housing Stock.

IV. Explain the Need to Fund Section 8 Contract Renewals During the Remainder of this fiscal year. Failure to Do So Will Trigger Massive Defaults and Displacement.

*I. It is essential to fully fund title VI sales during the remainder of fiscal year 1996.*

The Conference Committee adopted budget reforms which made the program less expensive. The bill modified the preservation law in the following important ways:

—*Clear priority for sales to nonprofit and tenant purchasers.*—Funding was limited till July 1, 1996 to sales of projects to nonprofit buyers. Notably, HUD has agreed to fund current sales under a "capital grant" provision embedded in current law. This should result in approximately 12,500 units of sales this fiscal year, depending on the speed of HUD processing. The grant includes up front payment for acquisition, rehab and transaction costs.

—*Tenant assistance upon prepayment.*—Where prepayment occurs, residents are entitled to so-called "sticky" vouchers, i.e., the resident should be able to stay in the housing even if the "street rent" for the housing is in excess of the Fair Market rent.

Thus, in order to prevent displacement and achieve long term budget savings, the Senate and House deliberately chose to target sales to nonprofit purchasers, protect residents from displacement and provide the funding necessary to achieve these objectives.

During negotiations between the Senate and House on the required level of funding and program reforms, Representatives and Senators from both parties urged adequate funding for the program and that nonprofit and resident purchasers be prioritized. Senator Craig (R-ID) noted that the capital grant "approach would be the best way to benefit buyers and sellers, as well as taxpayers and low income tenants." Senator Kempthorne (R-ID) observed that "many of these properties \* \* \* are in the process of negotiating closures with nonprofits \* \* \*" Congressmen Bunn (R-OR) observed: "I am concerned about the nonprofits who have been working under LIHPRHA to purchase properties and preserve them as permanent affordable housing." Congressman Lazio, Chair of the House Subcommittee on Housing and Community Opportunity (R-NY) asked for changes to preservation that would ensure that "capital grants are used for sales to nonprofits." Congressman Henry Hyde (R-IL) agreed, saying that " \* \* \* a more effective LIHPRHA program \* \* \* should focus on transfers to nonprofit and resident ownership groups rather than on refinancing \* \* \*" Congressman "Doc" Hastings (R-WA) observed that owners of properties in his district were "negotiating closures with nonprofit organizations or other resident groups. If we do not make funds available for these projects, the availability of low income housing will decrease because many owners will prepay their mortgages instead of negotiating with these organizations." (See Exhibit 1).

*II. Nonprofit purchasers have invested substantial investments of work and money into making these units permanently affordable.*

With the adoption of H.R. 2099, Congress embraced the policy imperative that with a sale, a relatively better result was achieved—the transfer of this unique housing resource into the hands of nonprofits and residents committed to keeping the resource affordable over the long haul. The Trust represents 7 nonprofit and resident groups who intend to purchase these properties. The Trust and our clients have invested literally thousands of hours in our efforts to purchase these properties. In each case of our representation, the nonprofit has been endorsed, in writing, by the residents at least twice: once to apply for a grant to complete the pur-

chase and once to approve the bona fide offer to the owner. In each case at least one third of the board purchasing the property will be comprised of residents. Residents are involved in hiring the consultants, hiring a management agent, setting house rules, etc. This is *prima facie* evidence of the residents' intent to not only stay but to participate in the ownership and management of their homes. They have fought hard to preserve the sales option. Failure to target sales to nonprofits essentially eliminates that option for many owners and buyers. While the refinance option should remain available, Congress made plain that the sales to nonprofits should be targeted. This must be incorporated in any new CR or Appropriations vehicle.

*III. The capital grant approach is the best vehicle for preserving these mixed income developments which serve as a unique community resource.*

The capital grant concept is straightforward. This proposal would substitute a direct capital grant for the insured second mortgage financing for equity take out, acquisition and rehabilitation. By contrast, the refinancing option requires additional Section 8 subsidies to finance a new HUD insured loan.

It's totally contrary to the drive to a balanced budget to create a new entitlement: new vouchers for tens of thousands of families who are presently unassisted. Once this rental assistance is provided, will it be removed? What residents fear and that Congress will come to regret, is that each year there will be intense pressure to renew the vouchers for existing households and, as now, there will be uncertainty every September until Congress adopts appropriations for the following year. By the year 2000, the voucher cost will actually exceed the preservation cost!

*IV. Approximately 100,000 LMSA and section 8 NC/SR units expire during fiscal year 1996. Failure to renew LMSA units, which are typically below FMR, is both costly and poor public policy.*

The Conference Report (p. 3) provides \$4.35 billion for renewing or terminating expiring Section 8 project and tenant based contracts. The absence of the appropriations set aside for LMSA and Section 8 NC/SR contract renewals in H.R. 2099 will trigger both displacement and defaults. The post rescission fiscal year 1995 program levels for Section 8 Contract renewals is \$2.159 billion. Assuming a 75 percent funding level for fiscal year 1996 yields a Contract renewal amount of merely \$1.62 billion! Over 90 percent of the contracts that expire this fiscal year are in the older assisted housing stock and are typically below, not above, fair market rent. Hence, renewal is very cost effective vis a vis vouchers for this set of units.

#### CONCLUSION

The Trust urges the Senate Subcommittee on HUD, VA and Independent Agencies Appropriations to include within any new appropriations measure or re-fashioned Continuing Resolution:

- Full funding for Preservation at a level of \$624 million and the program reforms targeting sales to nonprofits and providing vouchers to tenants as agreed upon by the conferees in H.R. 2099; and
- Renewal of Section 8 contracts per the terms of H.R. 2099.

#### FULL STATEMENT OF MICHAEL BODAKEN

Senator Bond, members of the Subcommittee, thank you for inviting the National Housing Trust to participate in this hearing today. My name is Michael Bodaken and I am the President of the National Housing Trust, a national nonprofit organization formed in 1986, dedicated exclusively to the preservation of affordable housing. Our board of directors includes representatives of all major interests in the preservation area, including tenant advocates, owners and managers, state housing agencies, national and regional nonprofit intermediaries, housing scholars and other housing professionals who care deeply about protecting this irreplaceable resource. The Trust was active in mediating the disparate interests of the housing community during the 1990 LIHPRHA debate and provided technical support to Hill staff on the 1992, 1994 and proposed 1995 amendments to LIHPRHA.

The organization serves as an informational clearinghouse on program developments for the public and private sector. In addition to its public policy and program monitoring role, the Trust provides technical assistance to resident endorsed nonprofits on sale transactions. Finally, at HUD's request, in 1994 the Trust held a series of working sessions throughout the United States to simplify the program and reduce its cost to the American taxpayer. The Trust actively participated in the preservation debate that led to the preservation reforms embodied in H.R. 2099.

## INTRODUCTION

Today's testimony covers four discrete areas:

I. Articulation of the need for full funding of LIHPRHA for this fiscal year and (b) the program reforms targeting sales to nonprofit purchasers and protecting residents in the event of prepayment. Failure to fund the program and adopt the program reforms will inevitably lead to displacement and the loss of thousands of units of affordable housing. The adoption of a "Continuing Resolution" absent both the funding level and the reforms incorporated in H.R. 2099 imperils the ability of nonprofit and resident purchasers to preserve affordable housing at an acceptable cost.

II. Observe that the adoption of 1996 funding levels without the reforms targeting sales to nonprofit and resident purchasers most profoundly impacts nonprofit and resident council purchasers who have spent thousands of dollars and hours to preserve this community resource.

III. Explain why the Capital grant proposal is the most cost effective means to preserve this mixed income housing stock which is serving residents of all incomes in urban, suburban and rural areas alike;

IV. Explain the need to fund section 8 contract renewals during the remainder of this fiscal year. Failure to do so will result in massive defaults and displacement.

*I. It's essential to fully fund title VI sales during the remainder of fiscal year 1996 under the program reforms embodied in H.R. 2099.*

On November 17, 1995 the Senate and House Conferees on HUD-VA and Independent Agencies adopted the fiscal year 1996 appropriations measure for HUD (H.R. 2099). For LIHPRHA, the Conference Committee provided funding of approximately \$624 million. This funding should save, per HUD's estimate, at least 22,000 at-risk units this year and protect tens of thousands of residents from displacement.

Apart from providing an adequate sum for LIHPRHA, the bill modified the preservation law (the preservation "provisos" are at pp. 4-6 of H.R. 2099 and the description is at pp. 47-48) in the following important ways:

—*Clear priority for sales to nonprofit and tenant purchasers.*—Funding was limited till July 1, 1996 to sales of projects to nonprofit buyers. Owners who have not filed a timely notice of sale have until March 1, 1996 to change their intention from "stay in" to "sell." Notably, HUD has agreed to fund current sales under a "capital grant" provision embedded in current law, 12 U.S.C. 4110(d)(B)(3)(B). This should result in approximately 12,500 units of sales this fiscal year, depending on the speed of HUD processing. The grant includes up front payment for acquisition, rehab and transaction costs.

—*Tenant assistance upon prepayment.*—Where prepayment occurs, residents are entitled to so-called "sticky" vouchers, i.e., the resident should be able to stay in the housing even if the "street rent" for the housing is in excess of the Fair Market rent.

—*Minimum equity for participation.*—The universe of "eligible properties" are those with equity above the least of the following: \$5,000/equity/unit, \$500,000/equity/project, or 8 times FMR/unit for the locality in which the property is located (this last measure is intended to assist preservation of rural properties in areas of relatively low FMR). This reform prevents those who could not have prepaid their mortgages from obtaining the benefits of the program;

—*Technical assistance.*—Up to \$10 million will be set aside for technical assistance for predevelopment expenses or to build capacity to purchasers. This is essential to compliment the priority given to fund nonprofit and resident purchases.

—*HUD discretion funds remaining after July 1, 1996.*—The Secretary of HUD may determine priorities for distributing available funds, including providing vouchers to displaced tenants and to projects that have not been funded by that date but which have approved Plans of Action. These are the so-called "stay-in" approved, but unfunded funded Plans of Action. Additionally, after July 1, 1996 the Secretary may impose a moratorium on applications for further funding and prioritize funding for other miscellaneous priorities.

Thus, in order to prevent displacement and achieve long-term budget savings the Senate and House deliberately chose to make reforms which target sales to nonprofit purchasers, protect residents from displacement and provide the funding necessary to achieve these objectives. Despite the budget impasse, the National Housing Trust urges the Senate and House to pass an appropriations vehicle incorporating these important reforms for this fiscal year.

*History of H.R. 2099 and the appropriation of \$624 million for LIHPRHA.*—It may be helpful to summarize how Congress determined that Preservation should be funded at the \$624 million level for fiscal year 1996, targeting sales to nonprofit and

resident endorsed purchasers, and providing for a voucher level that prevents displacement.

The House of Representatives originally set aside \$200 million for the program and asked that the Senate "reform" the present program. Congress ultimately determined that there should be full funding for Preservation, that sales to nonprofits should be targeted, and that tenants in properties where owners prepaid would be given vouchers protecting them from displacement. These reforms of the program are embodied in H.R. 2099. (By contrast, these reforms are not yet included in the Continuing Resolution being considered by Congress. A Continuing Resolution is a useful short-term political vehicle. It is, however, a somewhat blunt means to fund housing programs for this fiscal year, obliterating the deliberate program reforms adopted in H.R. 2099).

During negotiations between the Senate and House on the required level of funding and program reforms, Representatives and Senators from both parties urged adequate funding for the program and that nonprofit and resident purchases be prioritized. In the Senate a Sign-on letter was sent to the Subcommittee supporting an appropriation level of \$624 million. Senator Bennett urged full funding on the Senate floor. Senators Craig and Kempthorne urged full funding, especially for the then "Senate position" of funding at \$624 million.<sup>1</sup>

The position adopted in H.R. 2099 is totally consistent with the level of funding essential to funding LIHPRHA transactions during the remainder of this fiscal year and the prioritization of sales to nonprofits and resident endorsed groups. According to HUD's own estimates, over 17,000 sales units were past the appraisal stage as of September, 1995. In addition to the 5,000 sales units with approved but unfunded Plans of Action, owners of developments containing an estimated 12,000 units had already submitted a Plan of Action or were negotiating with or seeking buyers at that time. Additionally, many owners who had sought to refinance are considering sale. Failure to provide this funding places tenants, owners and nonprofit purchasers in an impossible position and risks losing tens of thousands of affordable housing units.<sup>2</sup>

Thus the need for the full appropriation this fiscal year is based upon the large number of projects which have closed but are not funded and others that will soon be ready to close. The priority of sales to nonprofits reflected Congress' belief that sales with grants to committed nonprofits and resident purchasers would better enable this housing stock to remain affordable long term. The need to transfer this housing to nonprofits and residents has not diminished, nor been modified, by the Administration's failure to agree with Congress on a budget. Nor has the bi-partisan support for the Preservation program, expressed in numerous phone calls and letters from residents, nonprofits, governors, Congresspersons, and Senators from throughout the nation.<sup>3</sup> I believe that members of the Subcommittee agree that residents and nonprofit purchasers should not be caught in the crossfire between Congress and the Administration.

*Any proposal to modify preservation must take into account the existing pipeline and the current participants in the program, particularly nonprofit and resident endorsed purchasers.*—The vast majority of the likely participants in the program are already active in the pipeline. It is essential that a viable preservation option be maintained. Otherwise, due to the frustration of many owners, particularly those owners who are seeking to sell their properties, if there is a gap, massive prepayments will occur as the private sector seeks to maximize its return.

The Trust urges the Subcommittee to both provide full funding and "target" sales transactions (as articulated in H.R. 2099) for the reasons the Senate and House did so before; i.e., sales transactions are much more fragile (owners will walk unless assured there is a reasonable likelihood of closing), residents and nonprofits have expended countless hours and funds getting to this point, and nonprofit ownership helps assure long-term affordability of these properties.

Much has been said about the "queue," i.e., the unfunded, but approved Plans of Action. The Trust has scrutinized HUD's data and determined that outside the "queue," fully 50 percent of the properties which will close in fiscal year 1996 are

<sup>1</sup> Attached are letters from Congressmen and Senators supporting full funding for LIHPRHA and especially protecting projects which are currently being purchased by nonprofits throughout the United States. See Exhibit 1.

<sup>2</sup> The source for this analysis is HUD's Preservation Pipeline Analysis and the Preservation Budget Authority Options presented to the Subcommittee in November as well as the data presented to the Subcommittee in the Trust's analysis of the HUD data dated November 9, 1995. I know of no more reliable data estimates of the approaching pipeline. These documents are attached to the testimony as Exhibit 3.

<sup>3</sup> Exhibit 2 provides articles from all over the United States, asking that the preservation program be maintained.

for sales to priority purchasers. Fifty-nine percent of this number are sales properties where an owner must first offer the property to a resident endorsed nonprofit or resident council.

Nonprofit purchasers have invested substantial investments of work and money into making these units permanently affordable. The Trust, for example, represents seven nonprofit and resident groups who intend to purchase these properties. The Trust and our clients have invested literally thousands of hours in our efforts to purchase these properties. Failure to prioritize sales to nonprofits will have truly profound and harmful impacts on our efforts to empower residents and save communities.

In each case of our representation, the nonprofit has been endorsed, in writing, by the residents at least twice: once to apply for a grant to complete the purchase and once to approve the bona fide offer to the owner. In each case at least one-third of the board purchasing the property will be comprised of residents. Residents are involved in hiring the consultants, hiring a management agent, setting house rules, etc. This is *prima facie* evidence of the residents' intent to not only stay but to participate in the ownership and management of their homes. It seems manifestly unjust to now eviscerate the preservation program created to empower residents to preserve these properties.

Section 220(d)(3)(B) of the 1990 Act authorizes a capital grant for priority purchasers to cover acquisition, rehabilitation and other expenses in an amount equal to the Section 8 FMR over 10 years (or for a longer period, if necessary, to cover the costs identified in the law elsewhere). In that sense, capital grant is only "new" for stay-in owners and other qualified purchasers. The present regulations and law thus provide a transition to capital grant for sales to resident endorsed and other priority purchasers. By contrast, there is no apparent ability for HUD to fund refinances without expending large amounts of ongoing Section 8 subsidies. Indeed, restoration of the prepayment right and the targeting of sales to nonprofits was the balanced result adopted in H.R. 2099.

During the appropriations debate, many in Congress asked that prioritization for sales to nonprofits be embodied in H.R. 2099. Senator Craig (R-ID) noted that the capital grant "approach would be the best way to benefit buyers and sellers, as well as taxpayers and low income tenants." Senator Kempthorne (R-ID) observed that "many of these properties \* \* \* are in the process of negotiating closures with nonprofits \* \* \*." Congressmen Bunn (R-OR) observed: "I am concerned about the nonprofits who have been working under LIHPRHA to purchase properties and preserve them as permanent affordable housing." Congressman Lazio, Chair of the House Subcommittee on Housing and Community Opportunity (R-NY) asked for changes to preservation that would ensure that "capital grants are used for sales to nonprofits." Congressman Henry Hyde (R-IL) agreed, saying that " \* \* \* a more effective LIHPRHA programs \* \* \* should focus on transfers to nonprofit and resident ownership groups rather than on refinancing \* \* \*." Congressman "Doc" Hastings (R-WA) observed that owners of properties in his district were "negotiating closures with nonprofit organizations or other resident groups. If we do not make funds available for these projects, the availability of low income housing will decrease because many owners will prepay their mortgages instead of negotiating with these organizations." (See Exhibit 3).

*The Trust's forecast of the funding needs for preservation for this fiscal year.*— Since the Trust's and HUD's original numbers were generated last November, HUD has funded some of the 46 properties which had mortgages eligible for prepayment as of December 1, 1995. HUD estimated the total cost of the 46 properties to be \$175 million. Of that, \$68 million has been recaptured for funding, leaving \$107 million necessary to fund the balance.

Additionally, the Trust estimates that approximately 10,000 sales units will be ready to close during fiscal year 1996. The cost to fund these is approximately \$26,600 per unit. The total amount for sales is therefore \$266,000,000 plus \$107,000,000, equaling \$373,000,000. Many owners who had considered refinancing, and who had advanced to the Plan of Action stage, may switch to sales. A conservative estimate is that 25 owners, representing some 2,500 units would switch to sales this fiscal year. The total cost of these "switchers" is approximately \$66,000,000. The cost estimate would change from a total of \$92,000,000 for refinances in the queue to \$58 million (4,400 units of refinances) + \$66 million (4,400 refinances plus 2,500 sales) or \$124,000,000. Additionally, the Trust estimates the voucher need to be approximately \$117,000,000. This assumes a conservative pre-payment rate of 18 percent of the current pipeline plus 5 percent of units which have not yet filed, totaling 35,000 units. Finally, \$10 million was set aside for purchaser's technical assistance.

*Total cost of preservation per H.R. 2099—estimated by Trust*

[In millions of dollars]

	<i>Total cost</i>
Total sales (\$266 M + 107 M) .....	373
Total refinances and "switchers" to sales (\$58M + \$66M) .....	124
Estimated voucher costs (at an 18 month voucher estimate) .....	117
Technical assistance provided in H.R. 2099 .....	10
<b>Total .....</b>	<b>624</b>

This would effectively permanently preserve and rehabilitate over 22,000 housing units and protect 35,000 households post prepayment.

Preservation, once delayed by HUD's failure to timely issue regulations or conduct timely appraisals, is now operating full speed throughout the United States. It is a cruel irony that the budget impasse threatens to eviscerate the sales program and its promise to resident and nonprofit purchasers just as LIHPRHA is making a real difference.

*II. The capital grant approach is the best vehicle for preserving these mixed income developments which serve as a unique community resource.*

The need to preserve this housing does not mean that it must be preserved at an enormous cost to the federal government with funding based upon project based Section 8 financing.

The capital grant maintains the current rent schedule, i.e., residents paying more than 30 percent of their incomes would not receive rent decreases; residents paying less than 30 percent of their income would not pay rent increases. Under the capital grant the purchaser can create an operating reserve and receive excess 236 income on the property to mitigate against any future rent increases on very low income residents.

This approach simplifies the program administratively and dramatically reduces long term costs by eliminating the repayment of the 241(f) loan over a 40-year term. Indeed, this is precisely how HUD is currently closing LIHPRHA transactions with what little budget authority can be cobbled together during the budget impasse. Notably, this approach maintains the economic mix of the projects. Finally, by preventing rent increases, it serves as an anti-displacement measure.

In contrast, it's totally contrary to the drive to a balanced budget to create a new entitlement: new vouchers for tens of thousands of families who are presently unassisted. Once this rental assistance is provided, will it be removed? What residents fear and that Congress will come to regret, is that each year there will be intense pressure to renew the vouchers for existing households and, as now, there will be uncertainty every September until Congress adopts appropriations for the following year.

The NEW voucher costs for the housing and residents at risk total: 22,000 units (where owners would have preserved, but now can prepay) × \$3337 (voucher cost for 18 months using Trust estimates which assumes an average tenant share of \$294/month) equals \$73,000,000 plus the additional \$117,000,000 or \$190,000,000.

By the fiscal year 2000, the newly created voucher costs would have "caught" the preservation totals, i.e., the ongoing voucher cost of \$190,000,000 every 18 months would pass the \$624,000,000 appropriation in about 60 months! Every month after that the federal government is liable for a new entitlement created by a Congress committed to balancing the budget by 2002!<sup>4</sup>

In the meantime the nation will have lost over 100,000 units of decent, well maintained, well located affordable housing stock which serves as the backbone of many of our communities.

<sup>4</sup> Attached to my testimony is data provided by ReCap Advisors, which estimates the cost of restoring the prepayment right without a voucher alternative. The total outlays required is nearly \$2 billion for the next seven years. After that the costs continue to go up! The total budget authority during the next 7 years is nearly \$3.2 billion (without resorting to budget gimmicks). By contrast, those who have costed out capital grant agree that the average cost of preserving the 100,000 units of stock is approximately \$2 billion (without the outlays associated with the new voucher created by the full bore restoration of the prepayment right).

### *III. The present status of preservation*

This hearing occurs at a particularly auspicious time. Over the past year, data gathered by the National Housing Trust demonstrates the truly national scope of the program.

The following data summarizes activity as of August, 1995:

- Some form of activity has been taken on 1,174 Preservation properties;
- The 1,174 Preservation Notices of Intent filed by owners involve projects in 50 states, the Caribbean, and the District of Columbia. The program is national in scope. Over 130,000 families and elderly households are residing in properties where an owner has decided to participate in the Preservation program.
- The 1,174 Notices of Intent break out as follows:

	No. of units	Percent
367 Sell .....	34,489	31
800 Extend .....	97,758	68
7 Terminate .....	783	1
Total .....	133,030	100

—In 22 states, 21 or more Notices of Intent have been filed, representing 917 projects of the 1,174 total, or 78 percent of all property filings.

State	Properties	Units
California .....	216	17,399
Massachusetts .....	57	9,203
Virginia .....	57	7,968
Texas .....	57	7,689
Washington .....	48	2,241
Oregon .....	41	1,801
Wisconsin .....	41	2,951
Florida .....	38	4,755
Illinois .....	36	6,831
Michigan .....	35	4,741
Tennessee .....	34	3,815
Pennsylvania .....	26	4,958
Georgia .....	26	2,657
Minnesota .....	26	2,534
Indiana .....	24	2,864
Ohio .....	24	2,619
Connecticut .....	23	3,743
South Carolina .....	23	2,156
New York .....	22	4,770
Arkansas .....	22	1,812
Maryland .....	21	4,240
North Carolina .....	20	2,112

The projects range in size from 9 to 550 units. There are dozens of other "transition rule" properties, i.e., projects eligible for processing under the predecessor statute, Title II of the 1987 Act or Preservation at the owner's election. The Preservation program is truly operating throughout the nation.

### *IV. Approximately 100,000 LMSA and section 8 NC/SR units expire during fiscal year 1996. Failure to renew LMSA units, which are typically below FMR, is both costly and poor public policy.*

HUD originally requested authority to "voucher out" any federally assisted property which had an expiring Section 8 Contract. The Conference rejected that approach for this fiscal year. The Conference Report (p. 3) provides \$4.35 billion for renewing or terminating expiring Section 8 project and tenant based contracts. Section 214 of the Bill (p. 26) requires HUD to, at the owner's request, for a period of one year Section 8 contracts expiring during fiscal year 1996 at their current rent levels. After this fiscal year, the Secretary is provided the discretion to provide either tenant based or property based assistance. Owners are also advised to "reduce

dependence" on project based subsidy as units turn over (p. 57). The Report reiterates the need for authorizing committees to consider expiring fiscal year 1997 contracts during the Spring, 1996.

The absence of the appropriations set aside for LMSA and Section 8 NC/SR contract Renewals in H.R. 2099 will trigger both displacement and defaults. The post rescission fiscal year 1995 program levels for Section 8 Contract renewals is \$2.159 billion. Assuming a 75 percent funding level for fiscal year 1996 yields a Contract renewal amount of merely \$1.62 billion!

By contrast, H.R. 2099 funds contract renewals and Section 8 vouchers at \$4.351 billion. This is necessary due to the large number of projects which will require renewal this fiscal year. Of course, over 90 percent of the contracts that expire this fiscal year are in the older assisted housing stock and are typically below, not above, fair market rent. Hence, renewal is very cost effective vis a vis vouchers for this set of units.

#### CONCLUSION

Because Congress deliberately and specifically chose to fund preservation and renew contracts during this fiscal year, and because the alternative is costly and chaotic, resulting in the permanent loss of tens of thousands of homes for tenants across the nation, the Trust urges the Senate Subcommittee on HUD, VA and Independent Agencies Appropriations to include within any new appropriations measure or re-fashioned Continuing Resolution:

- full funding for Preservation at a level of \$624 million as agreed upon by the conferees in H.R. 2099 with targeted set aside for sales to nonprofit purchasers but with reasonable discretion provided to Secretary to fund refinances; and
- renewal of Section 8 contracts per the terms of H.R. 2099.

The irreplaceable stock in the Preservation pipeline can be preserved at an affordable cost to the American taxpayer. The lack of prioritization to nonprofit purchasers will create havoc in the communities where both nonprofits and residents have counted on the program to deliver critically needed affordable housing. Perhaps most damaging, failure to enact these program reforms would discount the Herculean efforts mounted by residents, nonprofits and other housing advocates and Congress to dramatically improve the current program.

#### EXHIBIT 1

##### LETTER FROM SENATOR LARRY E. CRAIG

NOVEMBER 1, 1995.

Honorable CHRISTOPHER BOND,  
*Chairman, Appropriations Subcommittee on VA-HUD and Independent Agencies,*  
*Washington, DC.*

DEAR CHAIRMAN BOND: I am writing regarding the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA).

Currently, there are about 75,000 to 100,000 units being considered for preservation. Some of these projects are negotiating closures with nonprofit organizations, resident groups, or others in an effort to maintain the availability of affordable housing for low-income residents. If Congress doesn't make funding available for these LIHPRHA projects, the availability of low-income housing will decrease. Many owners, having conscientiously fulfilled their legal obligations, will exercise their promised, legal right to prepay their mortgages and will be forced by economic circumstances to sell their units to new owners who can not afford to continue operating them as low-income housing. Therefore, I am concerned about the possible displacement of seniors and other low-income residents in my state of Idaho and around the nation.

I much prefer the Senate position on H.R. 2099 over the House position, with regard to Preservation Capital Grants and allocating adequate funds to maintain the integrity of the preservation program. I endorse the idea of directing HUD toward new grant programs that provide more flexibility and greater impact in this area. Whatever direction the committee ultimately gives HUD on new grants, we also need funding with immediate impact. Therefore, in the conference committee, I request you support and pursue funding for the current LIHPRHA Capital Grants program until any new grants program is fully up and running. This approach would be the best way to benefit buyers and sellers, as well as taxpayer and low-income tenants.

The National Housing Trust estimates that \$791 million in budget authority (BA) would be adequate to handle all the sales currently pending and the refinancing

now in HUD's queue. It is my understanding that this appropriation of BA would not result in any outlay problems within the Subcommittee's outlay allocations.

As we move toward balancing the budget, we must continue to honor our commitment to seniors and other low-income housing residents.

Thank you for your consideration. If I can be of any assistance, please don't hesitate to call on me.

Sincerely,

LARRY E. CRAIG,  
U.S. Senator.

LETTER FROM SENATOR DIRK KEMPTHORNE

NOVEMBER 1, 1995.

Honorable CHRISTOPHER BOND,  
*Chairman, Subcommittee on VA, HUD, and Independent Agencies, Washington, DC.*

DEAR CHAIRMAN BOND: I am writing to request your support in standing firm on the Senate position regarding appropriations for the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA).

As you know, there are approximately 75,000 to 100,000 low-income housing units currently being considered for preservation. Many of these properties in Idaho and throughout the Nation are in the process of negotiating closures with nonprofit organizations and other resident groups. If funds are not made available for preserving these properties, the availability of low-income housing could decrease because some owners will pay off their mortgages early and rent their units at market value, or sell the properties to another party who will rent the property at market value.

I request your assistance in maintaining the Senate position to appropriate funding for the preservation program under LIHPRHA during the forthcoming House/Senate Conference on the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies bill, H.R. 2099.

Thank you for your consideration.

Sincerely,

DIRK KEMPTHORNE,  
U.S. Senator.

LETTER FROM SENATOR BARBARA BOXER

OCTOBER 30, 1995.

Honorable MARK O. HATFIELD,  
*Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to you to express my support for the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) adopted by the Senate in 1990, and urge you to ensure that the preservation program receives sufficient funding when the conference committee meets to reconcile the House and Senate VA, HUD and Independent Agencies bills.

Nearly 500,000 residents in over 150,000 low cost apartments all over the country may face displacement without a strong commitment to preserve this valuable housing stock. Over 27,000 of these units are located in the State of California.

I support the higher funding level provided in the Senate bill—\$624 million—whether the funds go toward a reformed preservation program, or the present LIHPRHA program.

Failure to adequately fund either a redesigned program or the current program could result in prepayments, tenant displacement and the loss of a stock of housing that some consider to be the best in HUD's portfolio.

Thank you for your consideration of my request.

Sincerely,

BARBARA BOXER,  
U.S. Senator.

## LETTER FROM THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

NOVEMBER 9, 1995.

Honorable CHRISTOPHER S. BOND,  
*Chairman, Subcommittee on VA-HUD and Independent Agencies, U.S. Senate,  
 Washington, DC.*

Honorable BARBARA A. MIKULSKI,  
*Ranking Member, Subcommittee on VA-HUD and Independent Agencies, U.S. Senate,  
 Washington, DC.*

DEAR SENATORS BOND AND MIKULSKI: We are writing to express our strong support for the revised low-income housing preservation program funded through the HUD-VA-Independent Agencies appropriations bill. We urge you to place a continued priority on assuring that this program receives sufficient funding when the Conference Committee meets to reconcile the House and Senate versions of the bill. Nearly half a million residents in over 150,000 low cost apartments throughout the country are at risk of displacement if Congress does not appropriate sufficient funding for this program.

Specifically, we ask that the conferees appropriate an amount of at least the \$624 million in budget authority provided in the Senate bill, and to enact the reforms proposed by the Senate to make the program more cost effective. The Senate bill will preserve up to 40,000 units of housing, including thousands of units that are being purchased by residents and community-based nonprofit organizations.

We are also concerned with provisions that grant HUD the discretion to stop the processing of preservation projects and to allocate the appropriations for housing vouchers instead. While any tenants displaced by an owner's mortgage prepayment must certainly receive vouchers, preserving the property as affordable housing should be the top priority. Overall, it is more cost effective to maintain the affordable housing stock developed under these programs at below-market rents than to provide vouchers that will be both costly and difficult for residents to utilize.

We appreciate your efforts to provide funding for the low-income housing preservation program, and we look forward to your efforts to urge the conferees to protect these low-income residents.

Sincerely,

John F. Kerry, Tom Harkin, Dianne Feinstein, J. James Exon, Frank R. Lautenberg, Ted Kennedy, Daniel K. Akaka, Paul Wellstone, Jay Rockefeller, Carol Moseley Braun, Daniel Moynihan, Paul Simon, Paul Sarbanes, Patty Murray, Ernest Hollings.

## LETTER FROM MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1995.

Honorable ALFONSE M. D'AMATO,  
*Chairman, Committee on Banking, Housing and Urban Affairs, Washington, DC.*

DEAR MR. CHAIRMAN: We are writing to urge you to preserve the benefits currently available under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRA) for properties in the New York City metropolitan area that have been denied such benefits as a result of a 2½ year dispute with HUD over the proper interpretation of New York's Rent Stabilization Law (RSL). This dispute, which was recently resolved in favor of the property owners, prevented the owners of at least 13 area properties, containing about 2,300 housing units, from accessing a program that has been successfully utilized to preserve many other properties across the country.

As a result of economic incentives provided by the Federal Government in the 1960's and 1970's thousands of multifamily housing developments for low- to moderate-income families and the elderly were built by private developers. Acceptance of these economic incentives subjected property owners to a number of HUD-imposed restrictions, including limitations on profits. Under the contractual terms of these programs, property owners were permitted to prepay their mortgage debt and/or terminate other Federal assistance after 20 years of operation and convert their properties to more profitable use.

In the late 1980's Congress recognized that hundreds of thousands of units of viable low-income housing were becoming eligible for conversion and could be lost to the country. As a result, legislation was adopted in 1987 (LLIPHA) and modified and extended in the 1989 HUD Reform Act which effectively prevented such prepayment or termination and conversion.

The adoption of LIHPRHA in 1990 was intended to provide a series of concrete economic alternatives sufficient to fairly compensate owners for being deprived of their contractual right to realize the value of their properties, while preserving the properties for their intended beneficiaries. Unfortunately, when the owners of eligible properties in New York, that would be subject to New York's RSL absent Federal regulation, applied to HUD for LIHPRHA benefits, HUD disputed the owner's interpretation of New York law. As a result, appraisals of the properties' value could not be completed and processing was suspended.

In May 1995, 2½ years after many of the owners filed for LIHPRHA benefits, HUD conceded that the owners' interpretation of the law was substantially correct. By this time, the LIHPRHA program had been suspended pending its redesign by the House and Senate Banking Committees.

We believe that the New York area property owners whose LIHPRHA appraisals have been unfairly and incorrectly rejected or delayed by HUD, and who would otherwise have long since received their LIHPRHA benefits, should be made whole under the same program that has been available to preserve low-income properties in the rest of the country since 1990. This is a matter both of equity to the New York property owners and preserving the availability of housing for over 2,000 low-income families.

Thank you for your attention to this important New York problem. We look forward to working with you in arriving at a fair solution for the property owners and residents.

Sincerely,

Eliot L. Engel, Gary L. Ackerman, Charles E. Schumer, Susan Molinari,  
Thomas J. Manton, Edolphus Towns, Benjamin A. Gilman, Sue W.  
Kelly, Major R. Owens, Charles B. Rangel, Floyd H. Flake, José E.  
Serrano,

*Members of Congress.*

LETTER FROM THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON BANKING AND FINANCIAL SERVICES

NOVEMBER 9, 1995.

Honorable ALFONSE D'AMATO,  
*Chairman, Senate Committee on Banking, Housing and Urban Affairs, Washington, DC.*

DEAR SENATOR D'AMATO: The cooperation of our respective Committees over recent weeks in formulating and agreeing to major provisions of the Reconciliation Conference Report has been very much appreciated. Clearly, resolving the issues associated with the Savings Association Insurance Fund recapitalization has been challenging.

It is our intent through this letter to finalize our agreement on the use of additional savings from our respective Committees' jurisdiction to offset pressures on housing programs incurred as a result of discretionary spending caps. As we discussed Tuesday, we have been reluctant to come to an agreement that would utilize Banking Committee savings for programs under the authorizing jurisdiction of other committees. Your assurances that this would not be the case are very much appreciated.

We understand and appreciate the difficult position of the Appropriations Subcommittees as a result of the pressures of discretionary caps, and while we remain committed to working to find ways to mitigate these pressures if possible, both the House and Senate Banking Committees have more than fulfilled their directives under the Joint Resolution to provide savings against the deficit. It would be our belief that assurances are appropriate that the excess savings obtained from this Committee will benefit housing programs within our authorizing jurisdiction.

In this regard, a priority should be placed on assuring that programs under our jurisdiction which provide housing assistance for the elderly, disabled and other vulnerable populations be fully funded.

Secondly, we believe there should be a review of recommended increases in tenant rent contributions, as originally proposed in appropriations legislation, from 30 percent to 32 percent of adjusted net income. Forcing tenants to increase their monthly rent contributions runs contrary to the intent of authorizing legislation that gives local housing authorities the ability to set appropriate rent levels without excessive statutory involvement.

There is also continuing concern that the Preservation program envisioned by the respective Appropriations Committees will not have meaning without modest out-

lays. Accordingly, it will be preferable if we could use these savings to effectuate an interim solution.

Similarly, the House side considers it a priority to attempt to avoid the proposed 6-month delay in reissuing housing vouchers to deserving low-income families on waiting lists for assistance. This delay, while important as an outlay saving device, makes waiting lists for housing assistance longer and addressing it through possible savings from this Committee's work would seem appropriate.

There is also concern that cuts to public housing operating subsidies could place an undue burden on public housing authorities if reforms included in legislation currently before the House and Senate Banking Committees are not in place. A transition is currently underway with regard to public housing authorities and it is important that this transition not be too abrupt for effective implementation of prudential policies. It would seem appropriate that mitigating previously proposed decreases in funding for operating subsidies be the first priority for the use of funds made available by the Banking Committees' actions.

In conclusion, the House side is prepared to meet budget targets set by the Budget Committee, but to the degree there may be excess savings, believes that these funds should benefit housing programs.

Sincerely,

JAMES A. LEACH,  
*Committee Chairman.*

MARGE ROUKEMA,  
*Chair, Subcommittee on Financial Institutions.*

HENRY GONZALEZ,  
*Ranking Member.*

BILL MCCOLLUM,  
*Committee Vice-Chairman.*

RICK LAZIO,  
*Chair, Subcommittee on Housing.*

JOHN LAFALCE,  
*House Conferee.*

#### LETTER FROM MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES

OCTOBER 23, 1995.

Honorable JERRY LEWIS,  
*Washington, DC.*

DEAR CONGRESSMAN LEWIS: We are writing to urge your support for adequate funding to maintain the low-income housing preservation program when the conference committee meets to reconcile the House and Senate VA/HUD/Independent Agencies appropriations bills.

In Massachusetts more than 60 properties containing 13,500 units are being actively processed by HUD for preservation incentives. These include 10 projects that are being sold to resident- and community-based nonprofit organizations. In two cases the sales are fully approved, but cannot be consummated due to the lapse in Federal funding. If the preservation program is not promptly and adequately funded, this unique opportunity for resident ownership will be lost and the investment of these purchasers and the State and local agencies that have supported them will be totally squandered.

Moreover, because most preservation projects in Massachusetts are viable, well-maintained properties in good locations, many owners are expected to prepay their subsidized mortgages if preservation funds are not made available in a timely manner. Thousands of low- and moderate-income, predominantly elderly, residents could be displaced at a time when affordable housing options in cities and towns throughout the Commonwealth are dwindling.

Accordingly, we urge you to accept the Senate's decision to appropriate adequate funds to maintain the preservation program, either in its present form, or as a capital grant program (consistent with the House Bill's recommendations). In addition, we also ask that you oppose the Senate provision giving HUD the discretion to stop processing preservation plans and divert all available preservation funding to pre-payment vouchers. In Massachusetts' tight housing market, maintaining the existing affordable housing stock at regulated rents is generally more cost effective than providing tenants with vouchers.

We appreciate your attention to this critical issue affecting the lives of tens of thousands of Massachusetts residents.

Sincerely,

Joseph P. Kennedy II, John Joseph Moakley, Richard Neal, Peter Blute,  
John Olver, Peter Torkildsen, Barney Frank, Edward Markey, Marty  
Meehan, Gerry Studds.

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LETTER FROM CONGRESSMAN RICHARD "DOC" HASTINGS

OCTOBER 18, 1995.

Honorable JERRY LEWIS,

*Chairman, Appropriations Subcommittee on VA-HUD and Independent Agencies,  
Washington, DC.*

DEAR CONGRESSMAN LEWIS: I am writing regarding the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRA).

Currently, there are approximately 75,000 to 100,000 units being considered for preservation. Some of these projects are in my district negotiating closures with nonprofit organizations or other resident groups. If we do not make funds available for these projects, the availability of low-income housing will decrease because many owners will prepay their mortgages instead of negotiating with these organizations. Consequently, I am deeply concerned about the possible displacement of seniors and other low-income residents in my district.

Specifically, I am asking that the House move closer to the Senate's decision to appropriate adequate funds to maintain the integrity of the preservation program, or to create a capital grant program that will be more cost effective. I understand that the capital grant program is intended to preserve housing at the lowest possible cost to the Federal Government and reduce the ongoing subsidy of these properties. This would protect current residents and reduce the long-term involvement of the Federal Government.

In our drive to balance the Federal budget, I support these means to reduce long-term dependence on Federal funding. I urge you to pursue these goals during the conference.

Sincerely,

DOC HASTINGS,  
*Member of Congress.*

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LETTER FROM CONGRESSMAN RICK LAZIO, CHAIRMAN, COMMITTEE ON BANKING AND FINANCIAL SERVICES

NOVEMBER 15, 1995.

Honorable JERRY LEWIS,

*House Appropriations Subcommittee on VA, HUD and Independent Agencies, Washington, DC.*

DEAR MR. CHAIRMAN: First, let me say how much I appreciate the frankness of our recent conversations. Clearly, the problems we face are difficult, but I have no doubt that our mutual commitment to resolving them will produce good legislation.

Attached is a letter sent by members of the House Banking Committee to Senate Banking Committee Chairman D'Amato regarding the savings produced by the House-passed Reconciliation legislation. The letter indicates the Committee's willingness to contribute a portion of these savings to the Appropriations package you are crafting if they are spent on housing programs. In this regard, I very much appreciate the assurances that the savings would go to housing programs as well as the accounting you provided of exactly how the outlay savings provided by this Committee will be spent under H.R. 2099, the VA/HUD Appropriations legislation.

I am disturbed at the level of funding contemplated for the section 202 and 811 and HOPWA programs. I am pleased, however, to see that operating subsidies for public housing have been increased to the Senate level, that section 8 rent increases have been eliminated, and that the delay in reissuing section 8 housing vouchers reflects the position of the Administration.

As you know, I am opposed to unnecessary authorizing being contained in an appropriations measure, particularly because H.R. 2406, the United States Housing Act of 1995, was ordered reported out from the Banking Committee on November 8, 1995, and will be on the floor in the near future. The Senate legislation, S. 1260, also has been ordered reported, giving the authorizing committees an opportunity to preconference the bills and potentially pass legislation that can be sent to the

President. Additionally, Speaker Gingrich has indicated that authorizing should be retained only if it will result in necessary outlay savings.

Unfortunately, some policies contained in H.R. 2099 are plainly inconsistent with those in H.R. 2406. In fact, some provisions are unacceptable to both the House and Senate Authorizing Committees, specifically funding for a "Public Housing Institution" and a demonstration—the Public Housing/Section 8 Moving to Work Demonstration. Also, the Family Unification Program has been repealed in H.R. 2406 and its functions redirected to H.R. 4, the House welfare reform bill and, therefore, funding is unnecessary.

H.R. 2099 also eliminates the "take one, take all" provision, the endless lease provision, and the 90-day notice provision, rather than making them applicable for one year only. As you know, these provisions are contained in H.R. 2406 and S. 1260 and, because savings cannot be derived from their elimination, they should be deleted from H.R. 2099 and retained in authorizing legislation.

Regarding the Preservation program, the current language is inadequate. Several changes are needed to ensure limited preservation, protect residents, and to sunset the program. Specifically, the language should (1) ensure capital grants (rather than section 8) are used for sales to nonprofits, (2) leave open the potential for capital loans for extensions (HUD should explore further its ability to make capital loans), (3) expedite the process for prepayment, and (4) permit properties in the queue with certain plans of action readily to convert to sales.

The Severely Distressed Public Housing provision contained in H.R. 2099 is slanted toward large troubled housing authorities despite the fact that there are small PHA's that suffer from distressed housing in their inventory. Second, the provision is excessively bureaucratic. Similarly, the provision authorizing the development of mixed-income apartment complexes utilizes an unwieldy and overly-complicated formula. Finally, the provision regarding conversion of public housing developments to vouchers does not protect residents who live in tight housing markets for whom vouchers are useless.

From a purely technical standpoint, I am concerned with the use of the term "replacement" in relation to public housing that has been demolished. As part of the rescission package, you terminated the one-for-one replacement requirement for a year yet retain the concept of replacement housing in H.R. 2099—a significant step backward. Requiring replacement housing for apartments that have been demolished is costly, not to mention a primary reason so many PHA's are troubled.

I question the need for the number of set-asides for technical assistance contained in H.R. 2099, it appears there is a \$20 million technical assistance account, in addition to set-asides in the LIHPRHA, public housing modernization, Severely Distressed and Drug Elimination programs.

H.R. 117, the Senior Citizen Housing Safety and Economic Relief Act of 1996 reauthorizes the Home Equity Mortgage program for 5 years, an action your bill takes for 1 year. The legislation has broad support and extending its authorization for 5 years would benefit the legislation and both our Committees. I would be happy to provide you or your staff with more details on the legislation.

I look forward to working with you and please do not hesitate to contact me with questions.

Sincerely,

RICK LAZIO,  
*Chairman.*

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LETTER FROM CONGRESSMAN JACK METCALF AND CONGRESSMAN GEORGE R.  
NETHERCUTT

OCTOBER 17, 1995.

Honorable JERRY LEWIS,  
*Chairman, Appropriations Subcommittee on VA-HUD and Independent Agencies,  
Washington, DC.*

DEAR CHAIRMAN LEWIS: We are writing regarding the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA).

Currently, there are approximately 75,000 to 100,000 units being considered for preservation. Some of these projects are in our districts negotiating closures with nonprofit organizations or other resident groups. If we do not make funds available for these projects, the availability of low-income housing will decrease because many owners will prepay their mortgages instead of negotiating with these organizations. Consequently, we are deeply concerned about the possible displacement of seniors and other low-income residents.

We understand and agree that this program needs to be reformed to make it more cost effective. However, when reforming the preservation program, we urge you to adequately fund the needs of those affected. As we move toward balancing the budget, we must continue to honor our commitment to seniors and other low-income housing residents.

Sincerely,

JACK METCALF,  
GEORGE R. NETHERCUTT, Jr.

LETTER FROM CONGRESSMAN HENRY HYDE

OCTOBER 30, 1995.

Honorable JERRY LEWIS,  
*Chairman, House Appropriations Subcommittee on VA, HUD and Independent Agencies, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to express my support for funding the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA). I believe that Congress should support a reformed and more cost-effective LIHPRHA program. The program should focus on transfers of property to nonprofit and resident ownership groups rather than on refinancing, as the refinancing portion of the program is significantly more susceptible to fraud.

I strongly believe that congress must balance the budget within 7 years, and this task will entail significant cuts in many Federal programs. However, elimination of funding for the program this year will deny thousands of low- and moderate-income residents the chance to move off Government assistance and become homeowners. Since many of the participants in this program are elderly, they will be forced to move into nursing homes at a much greater cost to both State and Federal Government. Maintaining at least part of the LIHPRHA program will ensure that we honor existing commitments to seniors and other low-income housing residents.

Sincerely,

HENRY HYDE.

LETTER FROM CONGRESSMAN GEORGE P. RADONOVICH

NOVEMBER 1, 1995.

Honorable JERRY LEWIS,  
*Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to express my continuing concern about the Low-Income Housing Preservation program.

As you know, there are approximately 75,000 to 100,000 units being considered for preservation. Some of these projects are in my district negotiating closures with nonprofit organizations or other resident groups. If we do not make funds available for these projects, the availability of low-income housing will decrease because many owners will prepay their mortgages instead of negotiating with these organizations. Consequently, I am deeply concerned about the possible displacement of seniors and other low-income residents in my district.

Specifically, I am asking that the House move closer to the Senate's decision to appropriate adequate funds to maintain the integrity of the preservation program, or to create a capital grant program that will be more cost effective. I understand that the capital grant program is intended to preserve housing at the lowest possible cost to the Federal Government and reduce the ongoing subsidy of these properties. This would protect current residents and reduce the long-term involvement of the Federal Government.

In our drive to balance the Federal budget, I support these means to reduce long-term dependence on Federal funding, and urge your support as well. I appreciate your hard work on this difficult issue.

Sincerely,

GEORGE P. RADONOVICH,  
*Member of Congress.*

## LETTER FROM CONGRESSMAN JIM BUNN

OCTOBER 17, 1995.

Hon. MARK O. HATFIELD,  
*Chairman, Senate Appropriations Committee, Washington, DC.*

DEAR CHAIRMAN HATFIELD: I am writing to communicate my strong support for the reformed Low-Income Housing Preservation and Resident Homeownership Act ("LIHPRHA") adopted by the Senate in its HUD/VA/Independent Agencies appropriations bill. We urge you to place the highest priority on assuring that the program receives sufficient funding when the Conference Committee meets to reconcile the House and Senate HUD/VA and Independent Agencies appropriations bills.

We are concerned about the nonprofits who have been working under LIHPRHA to purchase properties and preserve them as permanently affordable housing. We are also very concerned about the impact on tenants who will face displacement if the sales in progress collapse and the owners prepay their mortgages. As you know, tenants in Oregon face a very tight rental market and rapidly accelerating housing costs. The loss of any units of subsidized housing will place a severe burden on our communities and on the individual senior citizens and families affected. The Oregon housing market is such that owners are very likely to prepay existing mortgages, given the opportunity.

Like you, we are committed to balancing the budget and reducing the deficit. However, we must honor our existing commitments to seniors and other low-income residents.

Sincerely,

JIM BUNN,  
*Member of Congress.*

## LETTER FROM MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES

OCTOBER 6, 1995.

Hon. LOUIS STOKES,  
*Washington, DC.*

DEAR CONGRESSMAN STOKES: We are writing to express our strong support for the reformed Low-Income Housing Preservation and Resident Homeownership Act ("LIHPRHA") adopted by the Senate and to urge you to place a priority on assuring that the preservation program receives sufficient funding when the Conference Committee meets to reconcile the House and Senate VA/HUD/Independent Agencies bills. Nearly 500,000 residents in over 150,000 low-cost apartments in all 50 States, the District of Columbia, and Puerto Rico are at risk of displacement if the Congress does not appropriate sufficient funding for this program.

More specifically, we are asking that the House recede to the Senate's decision to appropriate adequate funds to maintain the preservation program, either in its present form, or as a capital grant program (consistent with the House Bill's recommendation), which would make it more cost effective. The Senate Bill, if modified to allow for implementation in fiscal year 1996, will preserve up to 40,000 units of housing presently occupied by seniors and families that are otherwise at immediate risk of loss, including thousands of units that are being purchased by resident councils and community-based nonprofit organizations.

We also wish to note our disagreement with any provisions of the Bill that would result in the conversion of project-based subsidies to tenant-based subsidies. Of particular concern is the provision which grants HUD the discretion to stop processing preservation cases and to allocate all the appropriated funds for housing vouchers upon prepayment rather than for preservation of at-risk housing. While displaced tenants certainly must receive vouchers, it is also critical that the reformed preservation program be fully launched and available to owners and purchasers as a viable alternative to prepayment. In our view, it is more desirable and cost effective to maintain the affordable housing stock that we have developed under these programs at below market rents than it is to provide tenants with a voucher that will be difficult for residents in tight or specialized markets to utilize and are expensive to maintain over time.

We appreciate your vigilance in working to provide funding for housing programs in this difficult climate and we look forward to your efforts in the Conference Committee on behalf of the reformed preservation program.

Sincerely,

Joseph P. Kennedy II, Nancy Pelosi, John Bryant, Jim McDermott, Richard Neal, Charles Schumer, Luis V. Gutierrez, Henry B. Gonzalez,

Thomas Manton, Patsy Mink, Major Owens, José Serrano, Sidney Yates, Eddie Bernice Johnson, Maurice Hinchey, Floyd H. Flake, Lucille Roybal-Allard, William H. Orton, Nydia Velázquez, Lynn C. Woolsey, Thomas Barrett, Melvin L. Watt, Lane Evans, Martin Frost, John Olver, Bobby Rush, Maxine Waters, Elizabeth Furse, Robert Matsui, Jerry Nadler, Peter DeFazio.

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## LETTER FROM CONGRESSMAN DONALD M. PAYNE

OCTOBER 30, 1995.

Hon. LOUIS STOKES,  
*U.S. House of Representatives, Washington, DC.*

DEAR CONGRESSMAN STOKES: As Chairman of the Congressional Black Caucus, I am writing to express my strong support for the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) adopted by the Senate in 1990, and to urge you to place priority on assuring that the preservation program receives sufficient funding when the Conference Committee meets to reconcile the House and Senate HUD/VA/Independent Agencies bills.

I urge the Conferees to appropriate \$624 million in Budget Authority for preservation and identify the \$440 million in outlays for fiscal year 1996 that the Congressional Budget Office has determined are necessary to carry out the reformed program or support adequate continued funding of the present LIHPRHA program until the authorizing committee can redesign the program. Failure to adequately fund either a redesigned program or the current program will result in prepayments, tenant displacement and the loss of a stock of housing that is considered the best in HUD's portfolio. This policy will devastate many of those who are represented by the Congressional Black Caucus who are pursuing the American dream through homeownership.

Thank you in advance for your consideration of this very important issue and for conveying this message to the Conferees and to the White House.

Sincerely,

DONALD M. PAYNE,  
*Chairman, Congressional Black Caucus.*

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## LETTER FROM MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES

JULY 7, 1995.

Hon. LOUIS STOKES,  
*Subcommittee on VA, HUD and Independent Agencies Appropriations Committee, Washington, DC.*

DEAR CONGRESSMAN STOKES: We are writing to express our concern about proposals to eliminate the Federal preservation program (titles II and VI). We understand that you will be marking up the appropriate legislation next week in subcommittee.

Ten projects in Massachusetts have already been approved for sale by the Department of Housing and Urban Development (HUD) through the preservation program. Thousands of residents will be displaced, and nearly \$1 million in State funds and charitable donations will be lost if these programs are eliminated.

We strongly believe that Congress has a responsibility to balance the budget, and we understand that eliminating the deficit will require significant cuts in all kinds of Federal programs. However, failing to include any funding for the preservation program this year will deny thousands of low- and moderate-income residents across Massachusetts the chance to move off government assistance, and become homeowners. Since many of the residents are elderly, they will be forced to move into nursing homes at a much greater cost to both State and Federal Governments.

Funding the preservation projects already approved by HUD will save Congress money in the long run by keeping thousands of Americans off costly alternative public assistance programs. Therefore, we strongly urge you to include the \$550 million necessary in the fiscal year 1996 appropriations bill to close the preservation projects that have already been approved by HUD.

Thank you for your consideration. We look forward to your response.

Sincerely,

MARTY MEEHAN,  
PETER TORKILDSEN,  
PETER BLUTE,  
*Members of Congress.*

## LETTER FROM MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES

OCTOBER 31, 1995.

Hon. JERRY LEWIS,  
*Chairman, House Appropriations Subcommittee on VA, HUD and Independent Agencies, Washington, DC.*

DEAR MR. CHAIRMAN: We are writing to express our support for funding the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA). We were pleased that the Senate heeded your committee's call to reform the LIHPRHA housing preservation program.

We believe that Congress should support a reformed and more cost-effective LIHPRHA program. The program should focus on transfers of property to nonprofit and resident ownership groups rather than on refinancing, as the refinancing portion of the program may be more susceptible to fraud. It is important that housing stock, for the elderly in particular, is preserved as the cost of replacing these properties is prohibitive.

We strongly believe that Congress must balance the budget within 7 years, and this task will entail significant cuts in many Federal programs. At the same time, a withdrawal from funding the program may diminish the efforts of low-income residents to move off Government assistance and become homeowners. Since many of the participants in this program are elderly, they may have to move into nursing homes at a high cost to both State and Federal Government. A reformed, cost-effective LIHPRHA program will ensure that we honor existing commitments to seniors and other low-income housing residents.

Thank you for your careful consideration of this matter.

Sincerely,

J. DENNIS HASTERT,  
 JOHN EDWARD PORTER,  
*Members of Congress.*

## LETTER FROM MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES

OCTOBER 19, 1995.

Hon. LOUIS STOKES,  
*Rayburn House Office Building, Washington, DC.*

DEAR MR. STOKES: Last week, a number of our colleagues sent you a letter expressing their support for continued funding for the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA). A number of additional colleagues have contacted me to express their interest in supporting this effort. Their names appear below.

Thank you for all your work and leadership on housing issues, and for your efforts on this important program.

Sincerely,

Joseph P. Kennedy II, Kweisi Mfume, Howard Berman, Rosa DeLauro,  
 Henry Waxman, Julian Dixon, Vic Fazio, Sam Farr, Esteban Torres,  
 George Brown, Bob Filner, Jane Harman.

## LETTER FROM GOV. JIM EDGAR, STATE OF ILLINOIS

NOVEMBER 9, 1995.

Hon. JERRY LEWIS,  
*Chairman, Appropriations Subcommittee on VA-HUD and Independent Agencies, Washington, DC.*

DEAR CONGRESSMAN LEWIS: I am writing regarding the efforts to reform and fund the Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA).

With almost 100,000 rental units of affordable housing lost each year to demolition, abandonment and conversion to higher income use, a cost-effective and workable preservation program is a must. The Senate Republican proposal that provides a capital grant for the purchase of these units by nonprofits and tenants' ownership groups accomplishes this objective.

It is my understanding that this approach preserves the affordable housing at the lowest possible cost for the Federal Government and reduces the ongoing subsidy on these properties. Without a reformed and adequately funded preservation program, owners could prepay their mortgages and convert to market-rate develop-

ments. This could cause the displacement of the many seniors and low-income individuals that rely on this affordable and decent housing.

Illinois, for example, is the second most active State after your home State of California, in preserving affordable housing through LIHPRHA.

I applaud the Republican efforts to balance the budget by 2002 and bring sound fiscal judgment back into the Government. Affordable housing preservation in general, and the capital grant program in specific, is a cost-effective way to keep people in existing housing rather than replacing the lost units at significantly higher costs to States and Federal Government.

Thank you for your consideration on this matter.

Sincerely,

JIM EDGAR,  
*Governor.*

## EXHIBIT 2

[From the Salt Lake Tribune, Sept. 25, 1995]

### SAVE HUD HOUSING FUNDS

When Sen. Bill Bradley decided last month to discontinue his Senate career, he stressed his dissatisfaction with the legislative process by stating, "Neither political party speaks to people where they live their lives." Well, he and his Senate colleagues can really speak to people where they live, when they take up the VA-HUD appropriations bill this week.

H.R. 2099, one of the 13 spending bills that must be passed by Oct. 1, could end up putting hundreds of low-income elderly Americans out of their homes if it does not contain about \$440 million in capital-grant funding, which would enable property owners to continue to provide affordable housing for those who need it.

Utah Sen. Bob Bennett, a member of the Appropriations subcommittee that determines Housing and Urban Development spending, is in a position to help get that funding attached to the bill and to help persuade his fellow Republican senators of its importance. He knows, particularly from the tight housing market in his home state, how critical this funding will be to many fixed income Utah seniors.

The capital-grant funding, which was dropped from the bill the subcommittee passed earlier this month because it exceeded Congressional Budget Office allocations, would essentially serve the same purpose as a housing preservation program passed by Congress in 1990. That successful public-private partnership has helped property owners maintain lower-rent units for the low-income elderly.

The preservation program did that by providing property owners with alternatives to "prepaying" their HUD-insured mortgages after 20 years and thus escaping HUD's rent requirements—an option that has presented itself in the last decade to owners who had developed properties with HUD assistance in the 1960's and 1970's.

Instead of opting out the HUD program and bringing their rental units up to market rates, the property owners were given two other options: accepting HUD incentives to keep their units affordable for low-income residents, or selling the property to resident groups or nonprofit organizations. The new capital-grant plan would serve the same function, giving owners one-time payments to make up the difference between their property's market value and their mortgage balance—in exchange for maintaining low-income units.

The net effect of this complex financing structure is simple: Without some sort of preservation program, property owners will opt out of HUD programs and bring their units up to market rates—which means displacement of those who cannot afford the new rents. And in Utah, there are currently more than 700 units in 14 developments in which owners may soon take prepayment if there are no HUD subsidies.

That creates the immediate specter of low-income elderly being displaced from their homes and facing fates like nursing-home care or homelessness. They would have no choice: There is no funding in the appropriations bill for vouchers, and even if there were, rent vouchers would not cut it for the elderly in the tight Utah housing market.

Such a scenario would be the first really graphic effect of how the Republican revolution adversely affects the poor. The Republicans can avoid the likelihood of unpalatable pictures of displaced elderly by funding a housing preservation program in the VA-HUD appropriations bill. It would, in Sen. Bradley's words, speak to people where they live.

(From the Salt Lake Tribune, Sept. 9, 1995)

### HITTING HOME

(By Rebecca Walsh)

The walls of Enid Robertshaw's apartment are bare. But her aging furniture is sturdy. She scrunches down in a tweed easy chair, purchased for \$15 at Deseret Industries, and counts her blessings.

Robertshaw, 92, moved into Salt Lake City's Capitol Villa apartments in June and considers herself lucky. She lives on \$426 a month in Social Security and a food allowance. "They only charge you \$72 a month in rent here," she whispers, leaning forward.

"Oh, it's hard to get in these places," she says. "I had to wait two months. I overturned every plank to find a place."

She has no children and she has lived on her own since her husband died 40 years ago. But proposed federal budget cuts could end Robertshaw's independence.

The House has passed legislation that would cut programs that preserve federally subsidized and assisted housing. Section 8 contracts that help low-income Utahns pay their rent, and public-housing operating subsidies.

And the Department of Housing and Urban Development (HUD) is considering replacing subsidized-housing programs with voucher or certificate programs, eliminating wholly subsidized projects and requiring those on assistance to find their own market-rate apartments.

At least 21,000 low-income Utah households receive some form of federal assistance. A third of those could be hurt by the budget-cutting proposals, says Tim Funk, director of the Community Coalition of Utah. More than half the Utah residents who receive housing assistance or subsidies are elderly or disabled.

"This Congress is looking at making cuts and making policy changes," Funk says. "Some of that is welcome, but not all of it is well-thought-through. We need to slow down."

In the 1970's, Utah property owners built apartment developments with HUD-extended mortgages and 20-year contracts for assisted housing. New building stopped during the Reagan administration, and many of the early contracts soon will expire. Once the contracts expire, investors may sell and pay off their mortgages early—or turn the complexes over to market rents.

In 1990, Congress offered incentives to property owners to keep the complexes as assisted housing. The law also allows tenant groups to buy their complexes and keep rents low using HUD grants. That funding now is at risk.

**Forced to Move?** Nine Utah housing projects' contracts have expired and have not been extended. If their owners sell to private companies or start charging market rents, the low-income families, elderly and disabled residents who live in the buildings will have to move.

Without federal grants to nonprofit organizations and tenant groups to buy the properties or extend low-rent contracts, there is little incentive for owners to stay in assisted housing.

The Senate has yet to consider the House's proposal, but advocates say it is unlikely to be as quick to cut all subsidized housing.

The Senate VA-HUD-Independent Agencies Subcommittee of the Appropriations Committee will vote Monday on a \$550 million proposal for subsidized housing next year. Sen. Bob Bennett, R-Utah, sits on that committee. Bennett press secretary Mary Jane Collipriest says the senator supports the proposal.

Still, Funk and some property owners are mobilizing their residents for letter-writing and calling campaigns, and hope to persuade the rest of Utah's delegation.

Phil Carroll owns and manages 200 subsidized-housing units. He started a non-profit organization, Community Housing Services, that is trying to buy up and preserve assisted housing.

Burrell Davis still has to pay about \$11,000 per unit on one 20-unit complex. He can sell them for \$30,000 to \$40,000 each. His Section 8 contract will expire in a year. He has good reason to sell—but he says he would rather not.

Brian Sellers says he answers to several different investors for the more than 1,000 units he manages, including Capitol Villa. The investors see the proposed budget cuts, he says, and start talking of bailing out.

"It's a really hard sell for us," Carroll says. "Our economic interest is not to preserve this housing."

"It doesn't take much to realize we've got to preserve this housing," Carroll says. "These are real people. This is where they live. They take care of each other."

The House has proposed \$200 million to preserve assisted housing. That proposal and the Senate's have to be reconciled in conference committee. But the owners are worried about the House's longer-term plans to cut Section 8 subsidies in half by 2002 and replace the assistance with vouchers.

Utah HUD coordinator John Milchick says HUD is committed to supporting all existing subsidized units. "We want to renew all of the assistance that's there," he says. "But the public wants to address the deficit. The public wants fiscal responsibility, and the money has to come from somewhere."

Davis says the vouchers will be meaningless in market-driven complexes. "I'm thinking of the elderly ladies in my complex. This voucher does not give them enough money to go anywhere. What in the world are they going to do?"

James Hocking, a 48-year-old disabled resident of Capitol Villa, fears going back to a nursing home if the budget cuts pass. Born with a disk missing in his back, Hocking lived with his parents and spent nearly 20 years in a nursing home after they died before moving into his adapted apartment in Salt Lake City in 1981.

He says finding another accessible, affordable apartment would be impossible. "Obviously this housing is needed," Hocking says. "Why do they want to cut it?"

[From the Spokesman-Review, Sept. 25, 1995]

## UNDER THE BUDGET AX

(By Jim Lynch)

For 97 poor families at Spokane's Mt. Vernon Terrace apartments, rents could soar by \$200 a month next year.

Higher up on the South Hill, 58 poor and elderly residents at Regal Village Apartments fear rents will double and force them from their one-bedroom homes.

When dozen of these tenants recently cried out for fairness, they didn't call their landlords. They wrote to U.S. Sen. Slade Gorton, R-Wash.

Perhaps no plank of the federal budget-cutting platform will whack Spokane harder than the proposed housing cuts.

As many as 600 apartments—almost a fifth of the county's low-income housing stock—could become too expensive for the poor if Congress votes this week to end incentives and subsidies that persuade property owners to offer cheap, federally subsidized housing.

Housing advocates fear ending the so-called low-income housing preservation program will shrink Spokane's already overwhelmed housing stock in forcing owners to hike rents to maintain profits.

They warn that such action eventually would hold Spokane's poor to the cheapest stretches of the city, creating slums commonly found in larger cities and forcing many elderly people to move.

Mary Hierath is proud of the trees, shrubs and roses she has planted around her corner Regal Village apartment with a view of Browne Mountain.

"I would hate to move at my age," said Hierath, 80, who has lived at Regal Village for 24 years.

Her neighbor, Claire Wilks, 91, said moving doesn't make sense. "I'm too old for this monkey business. I like it here. I don't want to move."

Hierath, Wilks and more than 20 other Regal Village tenants wrote Gorton recently, urging him to save the preservation program.

Gorton's spokeswoman, Heidi Kelly, said the senator supports efforts to "reform" the program but also said he hopes the final version of the complex legislation still will encourage owners to continue working with the U.S. Department of Housing and Urban Development.

The goal is to overhaul HUD and ease the federal burden in lodging the poor. The cost has ballooned from \$5.5 billion in 1980 to \$23.7 billion in 1994.

Much of the housing in HUD's preservation program was built 20 years ago with enticingly low federally insured interest rates.

As the mortgages have been paid off, Congress has tried to preserve housing for the poor by creating more incentives to keep owners from bailing out of the program and pursuing market rates.

Incentives include tax breaks and low-interest loans.

The preservation program is one of the many at HUD, but it is a major one in this area. Budget-cutters say it is too expensive.

Some HUD officials maintain there is no need to panic if the program fades away: evicted tenants will be given vouchers that will help them afford lodging elsewhere.

But Congress' commitment to funding the vouchers is unclear, as is the popularity the vouchers would have among landlords unaccustomed to doing business with HUD.

One point most everyone concedes is that the voucher system will work far better in cities with fewer preservation programs and more housing options than Spokane has.

Only two states have more housing in the preservation program than Washington. And Spokane's low-income housing market already is squeezed so tight that Gov. Mike Lowry recently called it the biggest difference between East Side and West Side social problems.

The waiting list of HUD-subsidized housing—where qualified tenants pay up to 30 percent of their income on rent—is 2,000 names long in Spokane.

"Just being uprooted is enough of a difficulty, but if you don't have any place to go," what do you do? asked Andy Reid, director of the Spokane Low-Income Housing Consortium.

Without the ongoing incentives, some Spokane building owners say they will have to raise rents or lose money.

"If the funding is not available \* \* \* we will convert the property to market rents," said Gene Bouma, owner of Regal Village, who urged his tenants to write Gorton.

[From the Seattle Post-Intelligencer, Oct. 12, 1995]

### Senate Delay Could Threaten Housing Aid

(By Eric Houston)

Two weeks after the U.S. Senate voted to delay \$624 million in funding for a federal housing program, Seattle housing advocates say nearly 900 units of affordable housing in the city could be jeopardized.

The Senate voted to defer funding for the Low-Income Housing Preservation program, which is operated by the Department of Housing and Urban Development and encourages property owners to rent to low-income tenants. The House voted to allocate \$200 million—about \$450 million less than the previous fiscal year. A House-Senate conference is expected to meet this week to work out the final numbers.

"A program that receives no funding now stands a very slim chance of receiving funding in a year," said Philippa Nye, a housing policy coordinator for the Low-Income Housing Institute in Seattle. "Deferred funding means no funding forever."

Housing advocates say without continued funding, property owners could convert their buildings to market-rate sites, displacing hundreds of tenants.

But leaders of the Republican-dominated Senate disagree, saying they want to revamp the program to encourage property owners to remain in it and prevent the loss of low-income housing. They expressed concern that some property owners could opt to withdraw from the program by prepaying their mortgages.

"Reforms are needed—there's no question about it," said Heidi Kelly, a spokeswoman for Sen. Slade Gorton, R-Wash. "It could be very frustrating down the road if we were to have a shortage of low-income housing providers."

Kelly said Gorton favors the proposed reforms, which would offer property owners a capital grant worth 70 percent of the value of their property in exchange for staying in the housing program for 50 years. She said Gorton also favors giving tenants rent vouchers in cases where they are dislocated by property owners who decide to withdraw from the program.

The preservation program gives owners of subsidized housing complexes incentives to continue operating their properties as low-income housing.

In Seattle, the 234-unit Frye Apartments in Pioneer Square and the 55-unit Atwood Apartments near Pike Place Market are among the housing sites covered under the preservation program. Tenants pay 30 percent of their income for rent, and HUD pays property owners the difference between that and the market-rate rent.

About \$1.25 billion has been spent on the preservation program since fiscal year 1992, said Helen Dunlap, HUD deputy assistant secretary for multifamily programs. She said about \$700 million would be needed during the current fiscal year to allow the program to meet the demand for low-income housing. But even the proposed House funding is far below that figure and would require taking money from other HUD programs.

"The principal concern is that there be enough resources to protect tenants," Dunlap said. If the housing preservation program is cut, she said, the Clinton ad-

ministration would seek to use rent vouchers that dislocated tenants could use to find housing of their choice.

Many housing advocates have criticized vouchers, saying there is no assurance tenants will receive them or be able to use them in the private rental market.

"Vouchers are not as secure as the way it is now," Nye said. "In a tight market, someone with a voucher can't compete with someone who has money."

Housing advocates say many of the apartments threatened by the funding changes are occupied by senior citizens and people with disabilities.

Yvonne Benton, a tenant representative at the Ponderosa Apartments on 18th Avenue, said loss of the preservation program could force many people onto the streets. About 23 tenants at Ponderosa live in apartments covered under the preservation program.

"There's no place for these people to go—this is their home," said Benton, who has lived at the Ponderosa for 10 years.

Nearly 4,000 tenants in Washington state and more than 100,000 nationwide could face rent increases if funding for the preservation program is delayed for a year, housing advocates say.

"Cutting the preservation program would take away an opportunity for low-income people who have no other place to turn to for support," said Jackie More, president of the Laurelwood Gardens Tenants Association in Federal Way.

[From the Los Angeles Times, Sept. 23, 1995]

## LOW-INCOME RENTERS AWAIT VOTE ON SUBSIDIES

(By Tim May)

Renters in some federally subsidized apartments await an important vote in the U.S. Senate next week that could dramatically reduce the number of affordable units nationwide—and kill fledgling efforts by renters to buy their buildings and maintain low rents.

Among those watching will be 64-year-old John Dunlop of Sylmar. He and other residents at Valley Pride Retirement Village hope to purchase their 88-unit, federally subsidized building. Their complex is nothing special—there is no pool or sauna. "It's basic housing," Dunlop said.

But events in Washington could kill their plans.

If the Senate votes to remove next year's funding for the Low Income Housing Preservation and Resident Home Ownership Act, landlords of about 120,000 apartment units nationwide who have provided subsidized rent rates for the past 20 years would be able to raise the rents they charge, housing officials said.

"That means that thousands of low-income tenants would not be able to continue to afford living where they currently live," said Larry Gross, executive director of the Coalition for Economic Survival, which supports low-income tenant groups that are fighting to keep their homes.

California and Los Angeles, which have more low-rent units in the federal Housing and Urban Development program than any other region in the country would be hit hardest if no funding is provided next year, according to Congressional aides and housing advocates.

There are about 10,500 units at risk in Los Angeles, 2,667 in the San Fernando Valley. They are mostly found in places such as Sylmar, Panorama City, Pacoima, Van Nuys, North Hollywood and Canoga Park, said Luz Murillo, a management analyst in the city Housing Department. In about 24 cases across the city, building owners already are preparing to convert to market rates, as is the case at the 88-unit Silverlake Plaza in Silver Lake, whose residents recently received rent increase notices.

The federal program is threatened due to what congressional staffers called a "technical procedure" attached to a bill created by a Senate appropriations subcommittee.

The subcommittee had attempted to include housing preservation reform in a spending bill that would take effect next month. But the Congressional Budget Office found that the proposed reforms—which would provide capital grants to owners of low-income housing as an incentive to continue offering subsidies for another 50 years—were too expensive. As a result, spending for the program was not authorized until October, 1996.

That means that the owners of apartment buildings who signed up for low-interest government mortgages 20 years ago in exchange for providing affordable housing

would be eligible to pay off their 40-year mortgages and raise rents now, officials said.

If that happens, housing advocates said, there could be "substantial displacement" of poor families, senior citizens and disabled people who live in those developments.

If funding isn't restored, the plans of dozens of recently organized tenants groups seeking federal assistance to purchase their buildings, including at least four groups in the San Fernando Valley, could be squashed.

The preservation program law, passed in 1987, requires owners who want to get out of subsidized housing to offer to sell to the tenants or to a nonprofit group working on behalf of the tenants.

With assistance from housing advocates and nonprofit attorneys, tenants are putting pressure on California lawmakers.

An aide to Sen. Barbara Boxer said the senator is closely following the issue and hopes to influence her colleagues to authorize spending to continue the program. But, he said, housing funds are "being pitted against other programs \* \* \*. If she says, 'Let's appropriate \$624 million for preservation,' that has to come from another program."

There is a chance that an earlier approved House bill authorizing HUD to use \$200 million for preservation may resurface, officials said.

If that happens, sources said, at least some of the affordable housing currently at risk could be preserved. But for now, low-income tenants are concerned about their ability to purchase the building from the owners.

Los Angeles housing officials expressed alarm at the possibility that the funding may be lost.

"There are about 150 affordable housing developments where the owners are already eligible, or will be eligible, to pay off their mortgages" and raise rents in Los Angeles, said Anna Ortega-Garcia, director of the city Housing Department's pre-payment office.

"They are all at risk. At some of the buildings, the tenants are trying to buy, but only one building has already done that," Ortega-Garcia said.

That building is the 132-unit Mission Plaza Apartments in East Lincoln Heights, where tenants in December completed a \$7.5-million purchase with loans from HUD and the city. The purchase enabled most of the tenants to preserve their Section 8 housing status.

Project-based Section 8 is a federal program that sets tenant's rents at 30 percent of their annual income and provides a subsidy to pay the landlord the difference. It differs from Section 8 vouchers, which provide the individual tenant a specific amount of money toward rent. The tenant is then responsible for paying costs beyond the value of the voucher.

HUD officials say that if no funding is found for next year and residents are forced either to pay higher rents or move, the government would probably find money in other programs and give vouchers to those displaced.

Tenant group advocates counter that while such a plan is workable in places where housing is plentiful and reasonably priced, in cities such as Los Angeles and Boston, where rents are higher, low-income families would have difficulty finding new homes.

"From the city's point of view, this would be a lot of affordable housing to lose," Ortega-Garcia said. "We are dismayed at what is happening, but, like everybody else, we just don't know how it's going to turn out."

Housing advocates from Washington to Los Angeles characterize the situation as close to a crisis, and are putting their hopes in a lobbying campaign being waged by low-income tenants and housing advocates from Los Angeles and other cities that would be affected if funding is eliminated for next year.

Kathi Frazier, a board member of the Los Angeles County chapter of the National Alliance of HUD Tenants, left for Capitol Hill on Thursday from her apartment at Lurline Gardens in Chatsworth. A working, single mother, Frazier said she had a message to give to lawmakers.

"What Congress is doing affects everyone," Frazier said. "You have a lot of low-income, working people who just don't make enough money to pay market rates," said Frazier, who, as president of the tenant association at Lurline led an ultimately unsuccessful effort to purchase her building.

The owners gave notice to tenants in 1992 that they wanted to prepay the government mortgage and convert to market rate rents, but later changed their minds and decided to remain in the preservation program.

The action raised a red flag to Frazier and tenants at other complexes, like Valley Pride and another Sylmar complex, Astoria Gardens Apartments.

At Valley Pride, the owners—a group of limited partners—are cooperating with tenants' efforts to buy. It's a homey place, where residents respect the property and

each other. They tend small garden plots and flower beds, and some volunteer at Olive View Medical Center and at a nearby convalescent home.

The residents have been working with the nonprofit Ecumenical Assn. for Housing in San Rafael to buy the building. But, because of the uncertain situation in Congress, many of the residents are worried about the future.

Said Dunlop, an artist who had a stroke a few years ago: "If we have to move out, if they give all of us vouchers and make us move, there aren't that many good buildings to go to."

#### REDUCED LIFESTYLE

Thousands of families and individuals who are currently receiving Section 8 housing subsidies may soon find their rents skyrocketing if Congress votes to do away with the subsidies. Here are profiles of a family and a disabled individual who will be directly affected by the proposed cutbacks:

##### Jeffrey and Charmaine Geiser

- Employment: Jeffrey, 37, works as an X-ray technician at an area hospital; Charmaine, 35, is unemployed.
- Children: 3
- Income: \$20,000
- Rent: \$444 for a two-bedroom apartment.
- Rent without subsidy: \$806

##### Pete Martinez

- Employment: Pete, 52, is a former trucker who disabled his right arm in an accident.
- Children: None
- Income: \$692.36 a month
- Rent: \$311 for a one-bedroom apartment.
- Rent without subsidy: \$550

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[From the Los Angeles Times, Oct. 6, 1995]

#### CENTRAL LOS ANGELES—LOW-INCOME TENANTS RALLY IN SUPPORT OF RENT SUBSIDIES

Political rabble-rousers long have told the masses: Don't mourn, organize. In Silver Lake on Thursday, tenants of a subsidized apartment complex did a little of both.

Fearful of an upcoming congressional vote that may eliminate rent subsidies, about 40 tenants from Silver Lake Plaza staged a mock funeral for affordable housing.

At risk in next week's scheduled vote are subsidies for an estimated 10,500 apartment units for low-income residents in Los Angeles County and 140,000 nationwide, according to the Coalition for Economic Survival, which organized the event.

"This is like the front line of the battle," said coalition leader Larry Gross.

Residents in the 88-unit complex on Evans Street say they have received notices of drastic rent increases—some more than doubling current rents.

Property manager Mike Damron, who watched the demonstration, said he understood the tenants' plight but added that the building's owner could not afford to charge below-market rates without subsidies.

"It's an injustice," said Ernestina Burillo, an 80-year-old woman who has lived in the complex for 16 years. "Where are we going to go? Where are we going to live, on the streets?"

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[From the Oregonian, Nov. 3, 1995]

#### HOUSING ADVOCATES FEAR BUDGET CUTS DOOM LOW-INCOME PROJECTS

(By Osker Spicer)

The Portland area—already racked with a shortage of affordable housing—could lose about 1,000 low-income projects to the open market if lawmakers on Capitol Hill continue to whittle down federal housing subsidies.

"I understand that they're trying to balance the budget," said Joyce Williams, who has lived in Northeast Portland's James Lee Gardens complex for 17 years, "but they're cutting so many programs from people on low incomes who are really trying to do better. It'll hurt a lot of people."

Williams and others are concerned about the fate of the Low-Income Housing Preservation and Resident Homeownership Act.

They fear that a joint House/Senate conference committee may soon cut even deeper into the program—created in 1990 to help maintain affordable housing rates by requiring owners of selected properties to give nonprofit development agencies or tenant groups the first option to purchase the projects they've been managing.

The big worry is whether a joint committee—formed to resolve conflicts between the two versions of the budget bill—will favor the \$624 million Senate version or the \$200 million House version, said Will White, co-director of the Housing Development Center.

At stake could be almost 5,000 low-income housing projects in Oregon and about 1,000 projects in the Portland area, White explained from Washington, D.C., where he and Jeff Merkley of Human Solutions were pushing for support of the Senate plan.

Housing advocates predict the House plan will devastate thousands of people on fixed incomes, including many single-parent families and elders; damage the area economy and diminish the quality of life locally.

Among those advocating the cuts is U.S. Rep. Jerry Lewis, R-Calif., who chairs the House Appropriations subcommittee dealing with the Department of Housing and Urban Development.

Lewis said in a recent interview on National Public Radio that he doesn't see a problem with at-risk housing in his home state of California. "The rents aren't going to be double and we're extending contracts with those people, those individual landlords. You might want to double your rent or your rental rates. You can put a sign out \* \* \* but if there's nobody to rent your space, you know, you're going to be in deep economic trouble. And \* \* \* we're finding that there is no major move on the part of landlords to move out of this subsidized housing relationship with HUD."

But others say federal help is an absolute must.

White said that the \$624 million approved by the Senate would allow for the Oregon projects to go ahead; but he said the House version would mean that only one of the 4,981 projects slated to be sold to nonprofit-housing agencies at below-market rates will be completed.

Owners of the remaining projects then would be allowed to offer their properties on the open market, where it's doubtful the rental rates would remain affordable to most of the current low-income tenants, said Gretchen Dursch, executive director of Housing Our Families.

Dursch said the Preservation Program is important not only to the tenants but to the project owners, who had entered federally subsidized agreements with hopes and plans of being able to liquidate their properties at a specified point; and to the community, which will have to struggle with increased homelessness and displacements.

Byrd and other advocates are pushing Sen. Mark Hatfield, R-Ore., the Appropriations Committee chairman, who "is the key to getting the program approved. Hatfield is the key in the Senate and Jim Bunn (R-Ore.) is key in the House."

Byrd said Democratic Reps. Ron Wyden, Peter DeFazio and Elizabeth Furse support the preservation program. Rep. Wes Cooley, R-Ore., could not be reached for comment.

[From the Deseret News, Sept. 24, 1995]

## CUTS COULD LEAVE LOW-INCOME SCRAMBLING FOR HOUSING IN S.L.

(By Lois M. Collins)

As many as one-third of the 21,000 households in Utah that receive federal rent assistance may find themselves without homes if the Senate votes Monday to go along with cuts proposed by the Appropriations Committee.

The result will be displaced families scrambling to find housing in one of the tightest markets in memory, according to critics of the vote. And a large number of the poor, elderly and disabled people who live in privately owned low-income housing may become homeless, they predict.

At issue is the assisted-housing preservation program, which was enacted to keep private landowners from removing their housing units from low-income stock. Developers were able to secure low-interest loans to build the units, with the agreement they would remain low-income housing units for 20 years. Then, they could sell them or go for free-market rates.

In communities where housing was at a premium and rents were increasing, many landlords opted out of the agreement by paying back their loans early. It created a crisis so severe that in 1990 Congress passed the program to preserve low-income housing stock. Landlords who wanted out of the program were given two choices: sell the development to tenants or nonprofit purchasers who would contract to manage them as low-income housing for perpetuity, or accept a one-time HUD incentive based on current market value and equity.

Without the ban on prepayment, landlords nationwide may opt out with 100,000 to 125,000 units, said Tim Funk, chairman of the Housing Authority of Salt Lake County, and Buck Bagot, board member of the National Low-Income Housing Coalition.

Some landlords won't be able to resist, given rising property values and a chance to escape government regulations, said Phil Carroll and Brian Sellers, who between them have more than 2,000 private sector "assisted housing" units in Utah.

"For private owners like me, the reality is we're going to do just fine," Carroll said. "There's no problem (for landlords) in Utah because it's such a strong market. But more than 60 percent of the people in this kind of housing are senior citizens" on incomes that are not going to increase. "They're not retrainable and they're not easily moved. Most were wiped out by a spouse's illness. The downside is the day these people move out of this housing, they're in nursing homes."

"Even the most calloused, profit-motivated owner realizes this program is important and has worked very well."

Sellers' properties include 100-unit complexes in Salt Lake and Clearfield. Two of his low-income contracts expire this year; the others have about eight years to go. If Congress doesn't continue the preservation program, he said, he and his investors won't be able to afford to keep the rents below market rates—which means well above a low-income household's ability to pay for it. People who receive subsidies live at one-fourth or less of the state's average annual income. "But low-income people who can't afford market rents have to go somewhere," he said.

#### HOPE STILL EXISTS FOR HOUSING SUPPORT

All may not be lost in the effort to maintain the preservation program that gives private landlords incentives to rent their housing units below market rates for poor people.

Sen. Bob Bennett, who serves on the VA-HUD-Independent Agencies Subcommittee of the Appropriations Committee, and Sen. Christopher "Kit" Bond, R-Mo., who serves as its chairman, both support housing preservation and are discussing ways to preserve the funding.

But the suggestion that the government instead adopt a voucher system are not being met with much enthusiasm. In tight rental markets like the Wasatch Front, people are on waiting lists and vouchers from other programs are being returned because people can't find places that will take them.

And critics say vouchers are more expensive than the incentives to landlords.

[From the Oregonian, Sept. 25, 1995]

#### SENATE BILL THREATENS LOW-INCOME HOUSING

(By Osker Spicer)

Hettie McGee, a 73-year-old resident of a privately owned low-income housing complex in Northeast Portland, worries that she may lose her home.

McGee's home for almost 12 years has been the MJM Plaza on Northeast Sacramento Street, near Martin Luther King Jr. Boulevard.

The future of such housing projects is threatened by a recent Senate Appropriations Committee decision to slash federal spending on these subsidies.

"In doing so, the committee condemned thousands of seniors, disabled people and families living in these mixed-income, privately owned developments to lose their homes," contends Sara Shortt of the Oregon Housing Now Coalition. "Many will become homeless."

But Shortt and other advocates of low-income housing hope that the subsidy program, created in 1990, will be rescued when the full Senate tackles the Housing and Urban Development Department appropriations bill Monday.

Residents and housing advocates are making calls and rushing letters to Sen. Mark Hatfield, R-Ore., the Appropriations Committee chairman, urging him to intervene and save the program before the Senate votes on the HUD bill this week.

Ken Hart, Hatfield's legislative assistant on housing, said Friday the senator laments that—under current budget restraints—saving the program would leave other vital department projects to sink. He noted that the bill itself faces a veto because it has no funding for the National Youth Service initiative, "and the president has said he will veto it if it comes to him this way."

Meanwhile, on the homefront, fears and frustrations linger.

"I don't know where I'd be able to find another place to live that I can afford," said McGee.

Shortt said that in the neighborhood around McGee's building, "the average rent for a one-bedroom apartment is \$484. With a \$459 monthly Social Security check, \$484 a month for rent is an impossibility."

The Senate committee intends to replace this housing with Section 8 vouchers for low-income residents who face displacement, Shortt said. But in Oregon, the vouchers are often useless because vacancy rates for rental units are as low as 1 to 3 percent.

"The problem with vouchers—and a lot of people don't seem to understand this—is that people have had to wait as long as two years to get housing," said C.J. Hamilton, a resident in another subsidized housing complex.

"But people can't wait that long."

The 49-year-old, college-educated technical writer said she had to curtail her career because of an ailment called chronic fatigue syndrome.

She is one of two tenant representatives on the board of the Rose Community Development Corp.

The corporation is attempting to purchase—through HUD's housing preservation program—the Marla Manor Apartments where she lives in Southeast Portland.

"I am lying here in bed on the verge of crying because I don't know what I'm going to do," she said.

"Some people may say, 'Go and live with your family,' but some of us don't have families. I would never make it on the streets. I couldn't survive."

**EXHIBIT 3**  
**RECAPITALIZATION ADVISORS, INC.**

***AFFORDABLE HOUSING PRESERVATION  
 APPROPRIATIONS REQUIRED IF PREPAYMENT ALLOWED***

**SUMMARY**

If owners of LIHPRHA-eligible property regain the right to prepay, roughly 75,000 incremental Section 8 vouchers will be required, at a total Federal outlay (*net* of Section 236 Interest Reduction Payment recapture) over the next seven years, of \$2.0 billion. Budget authority required will be \$3.3 billion.

**PROJECTED PREPAYMENTS**

Appropriations required are calculated on the attached schedule and its footnotes. Principal conclusions from the analysis:

1. *At least 85% of LIHPRHA pipeline owners will prepay.* About 77% of the apartments now in the pipeline are in properties with at least \$1,000,000 Preservation Equity per property. We expect that *all* of these owners will prepay as rapidly as they can arrange takeout financing. A further 15% of the portfolio has between \$500,000 and \$1,000,000 in Preservation Equity. We estimate that at least *half* of these owners will prepay as well.
2. *Pipeline prepayments will occur rapidly, most within 12 months.* Even if the property is only at breakeven today, prepayment will be *viable* if an owner can raise rents as little as \$50 per month, and nearly all LIHPRHA-viable properties will be able to do that almost immediately. Arranging the necessary financing should also be straightforward: a new loan need only pay off the HUD mortgage (typically about \$11,000 per apartment today), which represents 50% or less of the property's estimated post-conversion value.
3. *Other properties not in the pipeline will also prepay.* Beyond the properties with immediate conversion potential are another 15,000 apartments in the LIHPRHA pipeline, plus another 250,000 apartments, not yet proceeding under LIHPRHA, which will be prepayment-eligible. Even if these properties have little or no value today, some of their owners will elect to prepay, if only to escape HUD regulatory burdens and the uncertainty attendant upon the HUD portfolio.

We believe that many of these properties will eventually prepay, but have eliminated them from consideration, chiefly for consistency of comparison with the cost of preserving the LIHPRHA pipeline under capital grant/loan.

<u>Element</u>	<u>Assumption</u>	<u>Derivation and evidence</u>
Section 8 administrative fee as a percent of rent	8.2%	Current policy. Section 8 vouchers are administered by public housing authorities (PHA's) who are paid a monthly administrative fee.
Apartments in pipeline	100,000	Compiled from responses to Freedom of Information Act (FOIA) requests to all HUD field offices. The actual pipeline is larger (about 150,000 apartments), but we have subtracted estimates of (a) properties that have already closed LIHPRHA recapitalizations, and (b) 'false positives': recent filings of properties with no real Preservation Equity.

<u>Element</u>	<u>Assumption</u>	<u>Derivation and evidence</u>
Pipeline apartments that would prepay	85%	Assumes prepayment by all owners with Preservation Equity per property of \$1,000,000 or more (77% of the pipeline), plus half of those between \$500,000 and \$1,000,000 in equity (another 15% of the pipeline).  This figure is conservative because it ignores any potential prepayments from (1) pipeline owners with less than \$500,000 in equity (about 8,000 apartments) or (2) owners who have yet to file LIHPRHA Notices of Intent (another 250,000 apartments).
Timing of prepayments:		
Within 12 months	67%	Recap Advisors estimate.
12 to 24 months	16%	Owners whose equity is greater will generally prepay first.
24 to 36 months	16%	In addition, it will take the typical owner some time to arrange new financing. This timetable is thus largely a matter of assessing how quickly the owner will be able to assemble the necessary financing.
Percentage Section 8 LMSA on property now	40%	Compiled by Recap Advisors from a large representative national portfolio. Compared with the portfolio as a whole, LIHPRHA-viable properties tend to have slightly less Section 8 LMSA, because they have higher value and thus were less likely to have needed LMSA in the past.  All current LMSA apartments are assumed to be occupied by very low income residents; although occupancy by low-income is possible, under Section 8 rules in force since 1981, new applicants must be very low income, and we believe that as a practical matter essentially all such apartments are indeed very low income.
Years remaining on Section 8 LMSA	2	New LMSA contracts are five years or less; in recent years HUD has been shortening renewal terms, partly in an effort to conserve budget authority.  When an LMSA Section 8 contract is in place at the property today, we have calculated only the <i>incremental</i> outlays resulting from (1) extending Section 8 to residents who qualify but are not currently receiving it, (2) increasing rents to market (which we have assumed is the Section 8 FMR), and (3) covering Section 8 costs after the current short-term LMSA contract expires.
Resident income mix:		
Very low income	67%	Compiled by Recap Advisors from 10,000 apartments in their LIHPRHA Plan of Action phase. These figures correspond well to overall portfolio figures which HUD has compiled in other contexts.
Low income	22%	
Moderate/market	11%	

<u>Element</u>	<u>Assumption</u>	<u>Derivation and evidence</u>
Incomes as percentages of area median:		Compiled by Recap Advisors from 10,000 apartments in their LIHPRHA Plan of Action phase. These figures correspond well to overall portfolio figures which HUD has compiled in other contexts. We chose to draw a distinction among very low income residents based on whether they now have Section 8 LMSA, because analysis shows that, at 11% of area median income, a very low income resident without Section 8 could not possibly afford the apartment. Hence these residents must have higher income from some source.
VLI with Section 8 now	11%	
VLI without Section 8	26%	
Low income	58%	
Moderate/market	89%	
Section 8 tenant share as a percentage of income	30%	As provided under current law. The Administration has proposed an increase to 35%.
Annual inflation	3%	Recap Advisors assumption based on average inflation over the last three to four years.
Section 236 IRP per apartment per year	\$619	Recap Advisors assumption based on a typical Section 236 loan with original balance of \$14,000 and interest at 7.0%, reduced by Interest Reduction Payments to an effective rate of 1.0% per year (3.03% debt service constant).
Percentage of pipeline that receives Section 236	66%	About 71% of HUD's 360,000-apartment Preservation Inventory consists of Section 236 properties; however, Section 221(d)(3) properties are more likely to have Preservation Equity (they are older, have lower average mortgage balances, and their debt service is less reduced). Statistics show that, of the first 23,000 apartments in the LIHPRHA pipeline, about 66% were Section 236.

### ***PREPAYMENT APPROPRIATIONS (BUDGET AUTHORITY AND OUTLAYS) ASSUMPTIONS AND ANALYSIS***

#### ***Summary***

Best available evidence suggests that allowing owners in the LIHPRHA pipeline to prepay will cost the Federal government about **\$2.0 billion** in incremental outlays (and **\$3.3 billion** in budget authority) over the next seven years (FY 96 through FY 2002). This memorandum summarizes the principal assumptions involved in deriving that figure.

#### ***Assumptions and Analysis***

Principal assumptions and the data sources from which they were derived:

<u>Element</u>	<u>Assumption</u>	<u>Derivation and evidence</u>
Current rents as a percentage of FMR	68%	Compiled from about 60,000 LIHPRHA apartments that have reconciled their appraisals with HUD.
Current PBE's	\$25	Recap Advisors estimate.

<u>Element</u>	<u>Assumption</u>	<u>Derivation and evidence</u>
Market rents on prepayment	100%	Statistical analysis has shown that LIHPRHA-viable apartments have market rents that reasonably approximate the current FMR. The Administration has recently proposed lowering the Section 8 FMR's from the 45th to the 40th percentile. Such a change, if made, would have no effect on the estimated prepayments (which derive from <i>true market rents</i> , not HUD FMR's).
Section 8 voucher rent as percentage of FMR	100%	Current policy. The Administration has recently proposed lowering the Section 8 FMR's from the 45th to the 40th percentile. If made, this change would reduce the net outlay costs of delivering Section 8 vouchers to displaced residents, but would correspondingly increase overall displacement and resident hardship.

*Costs in 1,000,000 \$*

### Affordable Housing Preservation

## Budget Authority Required If Prepayment Right Restored

Prepayments	(85% of pipeline)	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	Total
<i>Very low income</i>	<i>67% of residents</i>	<i>37,967</i>	<i>9,492</i>	<i>2,491</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>\$6,950</i>
<i>Low income</i>	<i>22% of residents</i>	<i>12,467</i>	<i>3,117</i>	<i>3,116</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>18,700</i>
<b>Total apartments prepaying</b>		<b>50,434</b>	<b>12,609</b>	<b>12,607</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>75,650</b>
 FY 96	 Very low income	181.7	187.1	312.8	322.2	331.8	341.8	352.1	2,029.5
FY 96	Low income	96.8	99.7	102.7	105.8	109.0	112.2	115.6	741.9
FY 97	Very low income		46.8	48.2	80.5	83.0	85.5	88.0	432.0
FY 97	Low income		24.2	24.9	25.7	26.5	27.2	28.1	156.6
FY 98	Very low income			48.2	49.6	83.0	85.5	88.0	354.3
FY 98	Low income			24.2	24.9	25.7	26.4	27.2	128.5
Minus Section 236 IRP recapture		(267.9)	(87.6)	(92.7)	(30.9)	(30.9)	(30.9)	(30.9)	(572.0)
Budget authority required in ...		10.6	270.3	468.3	577.8	628.0	647.7	668.1	<b>3,270.7</b>

06/03/95

Costs in 1,000,000's

## Affordable Housing Preservation

# Budget Authority Required If Prepayment Right Restored

06/03/95

107

Assumptions About Properties in the Pipeline						
575	Section 8 FMR (national median, 2-BR apt)	40,200	National median income, family of four			
68%	Current rent as a percentage of Section 8 FMR	30%	of income for rent (including utilities)			
391	Current budget - based rent	100,000	Apartments in the LIHP/RHA pipeline			
25	Current Personal Benefit Expense (PBE)	85%	of pipeline owners would prepay			
8.2%	Section 8 voucher contract administrative fee	619	Section 236 Interest Reduction Payments per apartment			
2,0	Years remaining on existing Section 8 LMSA	66%	of pipeline properties are Section 236			
Voucher Budget Authority per Apartment	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
Very low income with Section 8	4,786	4,929	5,077	5,229	5,386	5,548
Very low income without Sec 8	7,766	7,999	8,239	8,486	8,740	9,003
Low income	7,766	7,999	8,239	8,486	8,740	9,003
Property Resident Income Mix (before prepayment)	Very low with Sec 8	Very low w/o Sec 8	Low with Sec 8	Low w/o Sec 8	Moderate	Recapitalization Advisors, Inc.
Residents in this category	40%	27%	0%	22%	11%	160 State Street, 5th Floor Boston, MA 02109
Family income as percent of median	0%	0%	0%	0%	89%	Tel: (617) 720-5855 Fax: (617) 720-3722
Do they receive Section 8 vouchers?	Yes	Yes	Yes	Yes	No	

This schedule should be read in conjunction with the memorandum, *Prepayment Appropriations Assumptions and Analysis*, which accompanies it and provides explanation and evidence for the assumptions presented here. Section 8 subsidy costs assume 3% annual inflation over the seven year period.

*Costs in 1,000,000's*

Affordable Housing Preservation

## Net Outlays Required If Prepayment Right Restored

	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02	Total
<i>Prepayments (85% of pipeline)</i>								
<i>Very low income 67% of residents</i>	<i>37,967</i>	<i>9,492</i>	<i>9,491</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>56,950</i>
<i>Low income 22% of residents</i>	<i>12,467</i>	<i>3,117</i>	<i>3,116</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>0</i>	<i>18,700</i>
<b>Total apartments prepaying</b>	<b>50,434</b>	<b>12,609</b>	<b>12,607</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>75,650</b>
<b>FY 96</b>	<b>Very low income</b>	<b>133.7</b>	<b>137.7</b>	<b>230.0</b>	<b>236.9</b>	<b>244.0</b>	<b>251.3</b>	<b>258.9</b>
<b>FY 96</b>	<b>Low income</b>	<b>9.6</b>	<b>9.9</b>	<b>10.2</b>	<b>10.5</b>	<b>10.8</b>	<b>11.1</b>	<b>11.5</b>
<b>FY 97</b>	<b>Very low income</b>		<b>34.4</b>	<b>35.5</b>	<b>59.2</b>	<b>61.0</b>	<b>62.8</b>	<b>64.7</b>
<b>FY 97</b>	<b>Low income</b>			<b>2.4</b>	<b>2.5</b>	<b>2.5</b>	<b>2.6</b>	<b>2.7</b>
<b>FY 98</b>	<b>Very low income</b>				<b>35.5</b>	<b>36.5</b>	<b>61.0</b>	<b>62.8</b>
<b>FY 98</b>	<b>Low income</b>					<b>2.4</b>	<b>2.5</b>	<b>2.5</b>
<b>Minus Section 236 IRP recapture</b>		<b>(20.6)</b>	<b>(25.8)</b>		<b>(30.9)</b>	<b>(30.9)</b>	<b>(30.9)</b>	<b>(30.9) (201.0)</b>
<b>New outlays required in ...</b>	<b>122.7</b>	<b>158.7</b>	<b>285.1</b>	<b>317.3</b>	<b>351.1</b>	<b>362.6</b>	<b>374.4</b>	<b>1,971.8</b>

06/03/95

06/03/95

Costs in 1,000,000's

# Affordable Housing Preservation Net Outlays Required If Prepayment Right Restored

Assumptions About Properties in the Pipeline		Costs in 1,000,000's		Costs in 1,000,000's	
\$75	Section 8 FMR (national median, 2-BR apt)	40,200	National median income, family of four		
68%	Current rent as a percentage of Section 8 FMR	30%	of income for rent (including utilities)		
391	Current budget-based rent	100,000	Apartments in the LIHPRHA pipeline		
25	Current Personal Benefit Expense (PBE)	85%	of pipeline owners would prepay		
8.2%	Section 8 voucher contract administrative fee	619	Section 236 Interest Reduction Payments per apartment		
2,0	Years remaining on existing Section 8 LMAs	66%	of pipeline properties are Section 236		
Voucher Outlays per Apartment	FY 96	FY 98	FY 00	FY 01	FY 02
Very low income with Section 8	3,522	3,628	3,736	3,848	3,964
Very low income without Sec 8	5,710	5,882	6,058	6,240	6,427
Low income	771	794	818	842	868
Property Resident Income Mix (before prepayment)	Very low with Sec 8	Low w/o Sec 8 with Sec 8	Low w/o Sec 8	Moderate	Recapitalization Advisors, Inc.
Residents in this category	40%	27%	0%	22%	11% Boston, MA 02109
Family income as percent of median	11%	26%	58%	58%	89% Tel: (617) 720-3855
Do they receive Section 8 vouchers?	Yes	Yes	Yes	Yes	No Fax (617) 720-3722

This schedule should be read in conjunction with the memorandum, *Prepayment Appropriations Assumptions and Analysis*, which accompanies it and provides explanation and evidence for the assumptions presented here. Section 8 subsidy costs assume 3% annual inflation over the seven year period.

Senator BOND. Thank you, Mr. Bodaken. That is the reason that you are here.

I do believe section 8 contractor rules are included through March 15 in this CR, but we have got one more shot to try to get it right, and with your help and the help of this panel maybe we have a chance.

**STATEMENT OF PATRICIA J. PAYNE, SECRETARY, MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

Senator BOND. Ms. Payne.

Ms. PAYNE. Good morning. My name is Patricia Payne. Mr. Chairman, members of the subcommittee, it is a real pleasure to be here today. I represent the State of Maryland, the Maryland Department of Housing and Community Development. In the State of Maryland we have consolidated all of our housing functions, community development, and historic preservation in one department of State government, including the Housing Finance Agency, and that is what I represent.

I also am here today on behalf of the National Council of State Housing Agencies which, as you know, represents all of the 50 State housing finance agencies in the country.

States like Maryland, States in general have been increasingly important players in housing and community development over the last several years. Our roles have grown as the Federal role has shrunk, and let me give you some examples in Maryland of the key roles we are playing.

In Maryland, for instance, the Governor and the legislature appropriates approximately \$50 million in general funds and general obligation bonds for housing and community development annually, and in this tough budget year Governor Glendening has just announced his capital budget with continued full funding and commitment to these housing and community development programs.

In Maryland, we have a State-funded mortgage insurance company with over 100 million in reserves, funded with State dollars, that is there to provide insurance for single family and multifamily housing.

Not only that, we also have become partners with the city of Baltimore in their efforts to replace their public housing high rise complexes. You heard that mentioned today.

The mayor of the city of Baltimore came to us, asked us to help finance the replacement of 40 percent of the units in the four public housing complexes that will be torn down with State dollars. We have joined with him in a commitment of \$65 million appropriated over 7 years to do exactly that. We will finance small scale developments, we have small scale developments throughout the city to accomplish that goal.

Two years of this appropriation have already taken place; \$20 million is already on the table, this year another \$10 million, in our \$65 million commitment with the city of Baltimore to replace public housing. I think that is a major role for States.

We are also participating as one of the three States in the HUD-held mortgage disposition, so we are looking forward to that role as well.

We are here today because in order to be effective partners and the way we have structured our program is around the Federal tools, so they are absolutely crucial to us. That includes HOME, community development bloc grant, section 8, FHA insurance, and as you know, the low-income housing tax credit, and I think the key word that you have heard today has been something called uncertainty. That is what we all face.

Secretary Cisneros used that term, and other members of this panel referred to it. We simply do not know what is happening, and I think we are increasingly concerned that we are going to become road kill in this budgetary war. Road kill is exactly how we feel.

Let me speak to some of the major issues. We have got to do something about providing some certainty of funding. We cannot move forward with home and bloc grant without having some assurance as to the dollar levels that we are going to be dealing with.

We would like to see agreement. If not, we have got to work out some way so that we can continue to be assured of funding levels for our key programs.

Uncertainty has certainly been the key for the low-income housing tax credit. Here we are with the one tool left at the Federal level to produce affordable rental housing, and that is at risk, and its status unknown. In Maryland, that tax credit finances 3,000 rental units a year. Without that, those units would not be produced. Interestingly enough, these units are in every jurisdiction in the State of Maryland. It is a vital tool. We have to see it continued, and we are hopeful that we will see it continued with your support.

We are very concerned about HOME and community development bloc grant. We applaud you for funding HOME and CDBG at their fiscal 1995 levels. That was very important, key to us. We need to know, however, what allocations we are going to receive for the future for the next year.

We are right now in the middle of our budgetary process in Annapolis. The legislators are asking me, what is the status? Not knowing how much HOME and CDBG money we will have means we cannot finalize our budget, and we cannot move forward with allocations to localities, who are so dependent on these resources.

Now, in the short term, the uncertainty has led to a lot of delays in processing in our cash management drawdowns, the kind of day-to-day disruptions that make it very difficult to serve our customers, give Government generally a bad name and keep projects interrupted at the local level.

On section 8, Mr. Chairman, we are very appreciative of your ongoing concern about the devastating financial losses of section 8 contracts. We commend you for the 1-year renewals at the current levels. That is very important. There are about—right in the State of Maryland we have over 65,000 project-based section 8 units in Maryland. It is a major component of the housing business.

If the section 8 project subsidies are allowed to expire, we will be moving these projects back to market rents, which will mean substantial defaults, and also huge impacts on the tenants.

We understand that this week the Senate passed an extender bill which would provide a 1-year renewal authority. We also know that the new continuing resolution will continue through March 15.

Whatever the vehicle, we ask you to enact, for those that are expiring now, year-long renewal authority as quickly as possible so that we do not lose the units that are expiring this year.

Fortunately, we do not know of any States that have bond-financed projects that are expiring this year, but we are looking at the long-term picture here. In terms of this issue as it continues, we in Maryland have a State-funded mortgage insurance company. We have funded a substantial number, 15,000 project-based section 8 units over our history of 25 years.

The legislature did not like moral obligation, so they created a mortgage insurance company as an intermediary. That is why we have the insurance reserves that we do. We have taken a look at what would happen if we had to move our project-based section 8 projects to a fair market rent, or market rent, given the markets that exist throughout the State and the operating costs of these projects.

Having looked at that, we can tell you right today that if a mark-to-market were in effect for the projects we insure, our insurance company would have losses of over \$30 million and essentially put it out of business. This is a major concern of ours in the State of Maryland, so we need this issue to be dealt with sensitively, understanding that there are real issues here.

In the city of Baltimore, for instance, project-based section 8, there are 20,000 units. When you mark 20,000 units to market, what impact are you having on the market when you do this, and that does not take into account public housing or any of the other resources.

We also want to commend you on the risk-sharing program. It is currently operating under a continuing resolution. It has been enormously successful, and a very efficient way of doing multifamily. You have had the foresight to include both reauthorization and 10,000 new units for State risk-sharing in the HUD appropriations bill. However, under the terms of the continuing resolution, HUD is still unable to access them.

That program has been around since 1992. The States have participated. Maryland is one. You have authorized an additional 10,000 units. We think that this makes complete sense. You risk, we risk. The State risk, the Federal risk, this is leveraging. This is the kind of partnership that makes sense at the Federal level. We hope you can resolve the issues related to continuing the risk-sharing effort so we continue this program.

In the area of FHA single family mortgage insurance, you have enacted authority to continue single family, thank God. That is one of the tools that has been around—it is absolutely essential for affordable home ownership. Even the thought of not continuing it, it is remarkable that it is being expressed here.

It is absolutely essential to what States do, because 60 percent of our bond finance units for single family are credit-enhanced with single family insurance from FHA. We need to keep that tool available for us to be your full partners at the State level.

Some of the States, including Missouri, as a result of continuing resolutions, are reporting delays in their FHA processing for the single family mortgage loans. Other States, including North Carolina, are telling us that they are unable to get unpaid FHA claims.

That is a very serious problem for them, so the slowdown in processing that is resulting from the current situation is very serious.

#### PREPARED STATEMENT

These are some of the major issues facing the States. We want to be your full partners. It is getting really tough, and we appreciate all you can do to help us out.

Thanks for the opportunity to speak today.

[The statement follows:]

#### PREPARED STATEMENT OF PATRICIA J. PAYNE

Mr. Chairman, Senator Mikulski, and members of the Subcommittee, thank you for the opportunity to testify this morning.

I am Patricia Payne, Secretary of the Department of Housing and Community Development. I direct the State of Maryland's affordable housing and community development efforts. I speak to you today on behalf of the National Council of State Housing Agencies, which represents Maryland and all of the housing finance agencies of the 50 states.

Maryland and most states over the past several decades have committed significant state funding, person power, and ingenuity to solving our problems of inadequate housing and decaying communities. But our resources, like yours, are limited. Only by working together, through effective partnerships like HOME and FHA state multifamily risk-sharing, can we achieve our mutual goal of affordable homes and vital communities for our nation's families.

Our ability to respond at the state level depends significantly on the funding you provide for programs like HOME, CDBG, Section 8, and FHA insurance. You have not let us down.

We commend you, in this year of severe fiscal austerity, for your determination in finding the resources needed to sustain these essential programs. Now we plead with you to do everything within your power to free these resources from the budget stalemate. Housing and community development programs are innocent victims caught in the cross-fire over real budget disagreements.

We all want agreement between the Congress and the Administration on a fiscal year 1996 HUD appropriations bill. Absent an agreement, however, we must find a way to continue housing and community development programs at the funding levels upon which everyone—the Senate, the House, and the Administration—has agreed. Funding levels to which, Mr. Chairman, I know you are personally and deeply committed.

The states are painfully aware of the disruption and inefficiency caused by uncertainty. As you know, the Low Income Housing Tax Credit (Tax Credit) also has been hostage to the budget negotiations. The Balanced Budget Bill vetoed by the President contains a 1997 Tax Credit sunset. If sunset is enacted, this nation will lose its greatest and virtually only producer of low income rental housing. In Maryland, we would lose nearly 3,000 low income rental apartments a year. I know you agree this is a loss we cannot afford and a program we could not replace.

The states are confident that with your continued strong support and the support of a majority of your Senate and House colleagues, we will defeat sunset and preserve Tax Credit permanence. In the meantime, though, the mere prospect of the Tax Credit's termination is already severely discouraging Tax Credit investment and development.

We cannot afford more housing casualties. Without quick enactment of the year-long housing and community development funding and program authority you have provided in the fiscal year 1996 HUD appropriations bill, the states face the following harsh housing realities.

#### HOME AND CDBG

We applaud you for funding both HOME and CDBG at their fiscal year 1995 levels of \$1.4 billion and \$4.6 billion, respectively. These programs are indispensable housing and community development tools which work and should be maintained as separate funds. More could be done to streamline HOME and CDBG and to enable states to use them more flexibly and efficiently. In doing so, though, we implore you to preserve their unique program structures and missions for the very reasons you created them as distinct funds.

In a typical year, states by now would know their HOME and CDBG funding allocations. This year, though, HUD is unable to make those allocations without the certainty of full year appropriations.

Not knowing how much HOME and CDBG money they will receive and when, states are unable to finalize their housing budgets and plan with any certainty for the future. State legislatures, under their own severe budget pressures, are reluctant to set aside scarce state resources to meet the HOME match requirement when the amount and timing of that obligation is unknown. HOME funding uncertainty also slows the progress of Tax Credit and bond-financed housing developments which rely on HOME funding commitments for gap financing which cannot be provided through any other source.

The federal government shutdowns and personnel furloughs also took their toll on the HOME and CDBG programs. HUD's C/MI reporting system closed down during the first furlough, leaving states uncertain of the timing of funding disbursements and expense reimbursements. In addition, some states were unable to obtain needed HUD approval to transfer CDBG funds from one program use to another.

#### SECTION 8

Mr. Chairman, we are grateful for the concern you have expressed time and time again about the potentially devastating financial impact of Section 8 contract terminations and rent reductions on the states. We commend you for providing one-year renewals at current rents for New Construction and Substantial Rehabilitation Section 8 project-based contracts expiring in 1996. This renewal authority, however, is not covered by the terms of the current continuing resolution. Without this authority, HUD may not renew these contracts. Two thousand Section 8 units are at risk.

We understand that just this week the Senate passed an extender bill you cosponsored, Mr. Chairman, which if enacted would provide this one-year renewal authority. Whether by this legislative vehicle or some other, we urge Congress to enact this authority as quickly as possible.

If these Section 8 contracts are allowed to expire, rental assistance payments to their property owners will stop. Thereafter, owners will have to rely on whatever rent is obtainable in whatever neighborhood the property is located, even if that rent is too little to maintain the building for the tenants or to avoid a default on the mortgage. If defaults occur, as they inevitably will, hundreds of tenants will be displaced and high quality, irreplaceable affordable housing stock will be lost.

Fortunately, we are not aware of any state bond-financed Section 8 properties with contracts expiring this year. However, since state agencies financed roughly one-quarter of this inventory, states will confront this problem over time. If Congress does not provide for the renewal of Section 8 contracts at sufficient rents and state bond-financed mortgages default, the states would have to come up with the funds or default on the bonds.

All states are harmed, however, by the disruption today's renewal uncertainty causes in the housing bond market. This adds to the alarm states and the capital markets are already experiencing over HUD threats to cut rents in continuing Section 8 contracts. Standard & Poor's recently wrote in Creditweek Municipal, that "Proposals to cut or revise HUD Section 8 rent subsidy contracts ultimately could affect state G.O. ratings if the changes force housing finance agencies to call on the state moral obligation pledges that serve as a safety net for most Section 8-assisted debt." If Section 8 rents are reduced to fair market rents in Maryland, our state insurance fund would lose more than \$30 million, forcing it to abandon new business.

With regard to Section 8 FAF properties, we thank you for providing authority not contained in the House HUD appropriations bill for states to continue to refund the high interest rate bonds that financed these properties and share equally in the savings with the federal government. This continues a win/win situation for both the federal government and the states. The federal government realizes significant savings to the Treasury and the states have additional funds to commit to new affordable housing activities.

So far, the continuing resolutions have allowed these refundings to continue, although the federal government shutdown delayed the processing of some. We strongly urge the Congress to protect this authority in any future continuing resolution and to find some way of extending it through year-end.

Section 8 also suffered from the shutdown. Vermont reports that its request for a Section 8 contract amendment of \$400,000 was delayed and the state had to provide the funds until the amendment could be approved by HUD. Since many states request contract amendments on a regular basis, this problem would most certainly recur during any future shutdowns.

## FHA/HFA MULTIFAMILY RISK-SHARING

Though the provision of FHA multifamily insurance continues under the current continuing resolution, the enormously successful and efficient FHA/state multifamily risk-sharing program may be stopped in its tracks. In the absence of a housing authorization bill, you had the foresight to include both a one-year reauthorization of and 10,000 new units for state risk-sharing in the HUD appropriations bill. However, under the terms of the current continuing resolution, HUD may continue the program but is unable to access the additional units.

The state risk-sharing program, first authorized as a 20,000 unit, three-year demonstration in 1992, is an extraordinary model of how FHA multifamily insurance should operate. In 1994, its first year of operation, 28 states, including Maryland and Missouri, won HUD approval to participate. Since then, more than half of the original units have been firmly committed and participating states estimate that they could use the rest and the additional 10,000 units you authorized easily within the year. Without these units, the program will halt and planned developments will be derailed.

In Maryland, we have already approved three developments, exhausting our current allocation of 475 units. We have enough demand to use several hundred more units.

State risk-sharing is not just good FHA business. It is also a better buy for the federal government's credit subsidy dollar. Because risk-share developments use as little as half of the credit subsidy required by other FHA insurance programs, risk-share developments leverage twice as much mortgage money for affordable housing.

We are pleased that risk-sharing authority and the new units are also provided for in the Senate extender bill. We urge you, whether by this bill or some other way, to continue this program with additional units this year. We also recommend that you make the state risk-sharing program permanent, like all other FHA multifamily insurance programs, to end its inefficient stop start operation and to maximize its use.

Many states still use FHA's direct multifamily insurance program. Adequate credit subsidy for those programs is provided for under the continuing resolution. The government shutdowns, however, have presented the states with even more than the usual HUD processing hurdles.

Some states report that HUD staff were not available to process applications for FHA multifamily insurance, approve funding requests for properties already under construction, and inspect properties awaiting approval, delaying their financing. Other states reported using extraordinary means to obtain HUD officials' signatures required for the insurance processing to continue.

## FHA SINGLE-FAMILY INSURANCE

Thankfully Congress has enacted authority to continue the FHA single family mortgage insurance authority through this fiscal year. This is critical to states because nearly 60 percent of the MRB loans states make to lower income first-time homebuyers are FHA insured.

Some states, including Missouri, report HUD delays in FHA mortgage processing caused by the shutdown and HUD furloughs. The processing of FHA single family claims was also slowed significantly HUD's inability to pay claims on its single family insurance fund during the shutdown, costing taxpayers more than \$1 million in incurred interest. State housing finance agencies that foreclosed on FHA insured properties during the last months of 1995 still await payment of their claims. The North Carolina Housing Finance Agency, for example, is due more than \$300,000 in unpaid FHA claims.

Mr. Chairman, we are optimistic that the solution to these problems is near. We are confident that with your usual determination you will find it. Thank you for the opportunity to appear before you this morning.

Senator BOND. Thank you, Ms. Payne.

Some of the questions you asked are questions I have asked about what happens if you mark all these things to market rate? It sure is a good question. I am waiting for the answers.

Let me now turn back to Mr. Gentry. Earlier we asked the Secretary what the Department was doing to prepare for the changes pending in the appropriations bill. Can you give us your perspective on how local housing authorities are preparing for funding cuts and program changes?

Mr. GENTRY. Yes, sir; I can give you what I provided as some informal advice to some of the member agencies who have called me and asked me what the dickens is going on in Washington.

What the member agencies are planning on is an optimistic view that we will get the 90 percent of funding that evidently the CR will provide for. I have also advised each of the people I have spoken with to prepare fallback positions, as we must, as administrators, to make sure local programs can be operated as far as we can take them.

And those housing authorities that had January 1 fiscal years, as you heard Mr. Janus say earlier, have received funding as far as I know based on the funding levels that came out of the conference committee last month, but every agency has got a number of contingencies ready, and every agency is scared to death that they may be falling into those contingencies.

I might point out again what I indicated a while ago in my opening statement, and that is, housing authorities operate on a thin margin. We are restricted on our incomes, and we are restricted on the reserves that we can carry. What a housing authority will do is look at its biggest area of expense if it begins receiving a reduction in income, and that biggest area of expense is maintenance.

We have to pay our utility bills. We have to maintain our books of account so that our records are auditable, plus for most of us over one-half of our expense and one-half of our employees are located in maintenance.

What will happen is, maintenance will begin to receive less attention than it should. Properties will begin deteriorating, and we will have a stock that will show the results of lack of current funding.

Senator BOND. Do you see any changes in how the administrative staff of HUD is functioning relative to the challenges faced by your members with the new day in HUD and the new day in federally assisted housing? Are they getting the message yet?

Mr. GENTRY. Yes, sir; I think so. I am hearing this all over the country, that local HUD staff recognize that we are all in the same boat, and that has not always been the case in all States in the past, and that sort of cooperative attitude is nice.

Also, and I have to commend the Secretary on this, I think he is showing a good bit of courage in beginning to deal with some of the long-term troubled large city housing authorities which have helped, unfortunately, to create an identity for all of us.

Richmond, VA, is certainly not Chicago and, unfortunately, when those big city agencies get the bulk of the publicity and things are never turned around, that gives a false impression of the rest of us, and I think to the Secretary's credit he has had the courage to begin dealing with those issues, and that is a marked change from the past.

Senator BOND. Well, we appreciate the assistance you have given this committee throughout, and your leadership in the national organization as well as the good job you are doing in Richmond.

Mr. Bodaken, let me thank you again for all of the assistance you have given this committee in formulating the preservation reform provisions of the appropriations bill. This is an area which is ex-

tremely complex, and obviously we have got to have a lot of good ideas and guidance from people who really know how it works.

What is your perception of how the owners and nonprofit purchasers are enduring the delays and uncertainty from the current budget impasse, and how does it look to you at this point?

Mr. BODAKEN. Well, at first I thought they were going to blame me, but luckily they have not done that yet.

In all the deals we are working on, every one of them, the owners are beginning to feel like we have come this way. There was a promise, there was a concern about the preservation program 1 year ago, whether or not it was going to be around. We got over that hurdle.

Then there was a concern about appropriations back in the fall of last year. We seemingly got over that hurdle. There was not a celebratory mood, but there was a feeling of finality. Just like anything else in life, when you thought you had achieved something and then you realize, oh, I thought I had it, and then oops, that is what is going on now.

There is a feeling generally that, I thought that was all taken care of. What is going on now?

Senator BOND. That is kind of the way we felt, too, sort of like you are living in an Alfred Hitchcock movie. You escape from what you thought was the final trap, and they drop the bomb on you.

Mr. BODAKEN. I really think that is what is happening, is that people—it is not panic as much as just a dramatic sense of unease and anxiety, and I am constantly talking to people from all over the Nation who are saying, what is happening, and I basically say to them, I will tell you, anybody who tells you they know what is going on, they do not know what is going on.

I mean, that is just what I think, is that nobody really knows, and I tell them that until I know exactly, I cannot tell you that that deal is going to close, that you are going to have funding, and the residents in particular on the transactions we are working on are very anxious, because we have been giving them strong signals that this was going to happen, once we thought it was definitely going to happen back in December. I think they are feeling equal unease.

I will say that HUD, to its credit, is trying to close those transactions which are most imperiled during the two CR's, and I hope that that is what happens between now and March 15, and field offices have begun, I think, to really focus on those that are most on the precipice, but that will take a little bit of pressure off, but you cannot continue this, obviously, indefinitely, and when we get another bite at the apple, I really do hope that the reforms embodied in H.R. 2099 do end up in the final product, because you cannot really do it without that kind of a certainty.

I hope that answers your question. Basically, there is a lot of unease. There is a real sense of emptiness that we thought we had achieved something. We have not gotten it yet.

Senator BOND. The Department is working well with you?

Mr. GENTRY. Yes; but last night's CR frankly presents new challenges to the Department, because it encourages essentially a refinance option that was supposedly going to be delayed until July 1 under the reforms. That refinance option, as I understand it, can

only be accomplished with new section 8. That leaves tremendous ongoing obligations.

It could be very important in the next 6 weeks, but I hope the Department, the capital grant that we put together for sales is still there, but the refinancing, as I understand it, is going to be refinanced with section 8, long-term section 8, and that is I think contrary to the intentions of Congress.

Senator BOND. I think that does require a law change, but from your statement a minute or so ago, I find great comfort in that.

One of the first maxims I heard when I came to Washington was, in these complex and chaotic times, if you are not thoroughly confused, you are just not thinking clearly. Unfortunately, that applies again today.

Ms. PAYNE, give me an assessment of what the risks to State housing agencies would be, the borrowing costs and impairment of their financing capabilities from the funding disruptions in the current impasse.

Ms. PAYNE. In terms of all the programs we are dealing with?

Senator BOND. If we keep rolling this current CR that I have just had put before me were the rule for the rest of the year, what would happen?

Ms. PAYNE. It is going to make it difficult for State housing agencies to do very much at all in the area of rental and multifamily housing in terms of new production or substantial rehabilitation.

The tools that are usually counted on to be there to provide the necessary support to cover the gaps are not going to be there, or cannot be counted on, so developers, nonprofits and others, are not going to be able to put the projects together, put the financing together, that is necessary to do affordable rental housing, so what we are going to see is a substantial breakdown in our pipeline.

We thought that once the permanent extension of the low-income housing tax credit had been taken care of, we could create a vehicle for producing rental housing that would begin to attract nonprofit, for-profit developers for a continual process of production, combining our bond tools and our other resources.

That sort of contract has broken down. We are finding that developers and nonprofits are uncertain about the future, so they no longer want to look into the potential of developing, and we see that we are going to lose time and resources. Big questions in that area.

Senator BOND. You may have heard earlier that Secretary Cisneros put very high emphasis on the EDI program and said this was vitally important to local communities.

From your perspective, both with your responsibilities at the State level and as a representative of the communities within your State, would you be willing to take cuts in CDBG or HOME to fund the EDI?

Ms. PAYNE. You really are asking a tough question. Our priorities at the State level are education, jobs, and safe communities, in that order, and housing and community development is an issue in terms of its fitting into that set of goals as an economic generator as well, so we have tried to make it an aggressive activity in that area.

State housing finance agencies see their major role in economic development activities. Take the fifth is the best advice I have heard on that one. I do not want to speak for their organization.

Senator BOND. I had to face that question. With the limited resources available, I chose funding CDBG as opposed to EDI and National Service. Frankly, I want to try to protect those. I think CDBG and HOME are extremely important.

Do either of you gentlemen have areas where you would prefer more money in HUD programs than in CDBG or HOME?

Mr. GENTRY. In Richmond, my agency is a combined agency. We are also a redevelopment agency. We administer much of the city's CDBG and HOME funding, and I would hate to see what my mayor or city council would do to me if I advocate reducing either one of them.

Senator BOND. Well, just tell them that the tradeoff—if there is going to be negotiation, I hope that the administration can find some place else other than these two areas to cut.

Oh, just as a last comment, Mr. Gentry, the Secretary had raised strong objection to our proposal to transfer fair housing to the Department of Justice. I have had support from members of NAHRO for that proposal. Would you give us your guidance on that question?

Mr. GENTRY. NAHRO itself has not taken a formal position on it. However, I have lived in the South all my life, North Carolina, Florida, Texas, and Virginia. I remember well the way things used to be, and I would hate for any misinterpretation to occur over our continued requests for deregulation. The deregulation that we have asked for is to help give us the flexibility to operate our own programs, not to allow any return to the way things used to be 25 or 30 years ago.

So I would hate to see anything happen that would allow my part of the country to go back to the way things used to be, or any statement we would make be interpreted in that light.

Senator BOND. Well, I served as a law clerk for the chief judge of the Fifth Circuit Court of Appeals in Atlanta 30 years ago, when the Federal Government was taking a very strong position to end racial discrimination. I certainly feel that we cannot take any step which might open up the opportunity that discrimination would return.

The proposal to move fair housing to the Department of Justice was to ensure that there would be a strong civil rights oriented enforcement agency. Some members of NAHRO have said they find the day-to-day interference in the activities of their agencies, the continuing meddling, I think one person put it, by the existing operation within HUD to be one of the biggest problems they faced with HUD. It was on that basis that we asked the question.

Mr. GENTRY. As a former HUD employee, and as someone who has been out in the field dealing with HUD programs for over 15 years, there is always an interplay between people in the field and people at HUD on how programs get done. I have encountered meddling myself, and not just in the area of equal opportunity, but other areas as well. I have seen much less of that over the last year or two, and I think that HUD does have a role to play.

One of the things I might say as well as a continued response to this, and also it is a response to something Senator Mikulski said this morning, it is the umpires that control behavior of a game more than the talent or ability of the players on either side.

Likewise, it is the rules that are established in the city that govern our operations, which govern much of the behavior in the field, and I would think that what we would look for is that the rules that come out of here give us as much reasonable flexibility and latitude as possible in the field, and that those be emphasized strongly to HUD, and that could go a long way toward removing any meddling in any area within HUD in the future.

Senator BOND. Thank you very much, Mr. Gentry, Ms. Payne, Mr. Bodaken. We appreciate your assistance. The information that you have given me are arguments I will take to my colleagues on the floor. We will give them hell until it freezes over and go a few rounds on ice and see what happens.

#### SUBCOMMITTEE RECESS

Senator BOND. I hope the next time you are back here, we may have a bill enacted. Thanks so much.

We will reconvene at 2 o'clock this afternoon.

[Whereupon, at 11:54 a.m., Friday, January 26, the subcommittee was recessed, to reconvene at 2 p.m., the same day.]

(AFTERNOON SESSION, 2:03 P.M., FRIDAY, JANUARY 26, 1996)

The subcommittee met at 2:03 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Christopher S. Bond (chairman) presiding.

Present: Senators Bond, Mikulski, and Lautenberg.

**ENVIRONMENTAL PROTECTION AGENCY**

**STATEMENT OF CAROL M. BROWNER, ADMINISTRATOR  
ACCOMPANIED BY FRED HANSEN, DEPUTY ADMINISTRATOR**

**OPENING STATEMENT OF CHRISTOPHER S. BOND**

Senator BOND. This hearing will reconvene.

Good afternoon, Ms. Browner, witnesses, and guests. This afternoon we are going to hear from EPA Administrator Carol Browner and a panel of outside witnesses regarding EPA's budgetary situation.

As a result of the situation we find ourselves in with the appropriations bill for VA and HUD being vetoed last month, and CR's of different stripes and character and lengths being proposed, I hope we can move beyond the problems of how we got here to talk about how we can resolve the impasse, what the bottom line is for EPA, and what kinds of problems EPA is encountering.

We had to take a very careful look at EPA in the 1996 appropriations bill we passed because in times of very tight budgets we had to balance the needs of the environment, veterans, housing, space, science, and many other programs and activities within an extremely tight budget allocation. I believe the cut in our appropriations bill was about the largest that any committee took.

We approached the task with respect to EPA based on, among other things, the recommendation of the nonpartisan National Academy of Public Administration, and, of course, a number of witnesses that we had before the committee.

We have done our very best, or did our very best to provide adequate funding for environmental protection. Indeed, the Senate version of the EPA appropriations bill provided slightly higher than the fiscal year 1995 budget for EPA's operating programs and State categorical grants, while, as I said, the subcommittee allocation was reduced almost 12 percent below the 1995 levels, and I think that is something that some of the critics of this bill have overlooked.

Specifically, the largest cut in the Senate bill to the EPA's budget came from congressional earmarks for water and sewer projects, and if there is one thing that is uniformly scorned in this town, except by those who are successful in getting the earmarks, it is earmarks, and also from Superfund, a program sorely in need of reform, and one which we must pursue authorizing legislation to reform.

We think that many of the recommendations of the National Academy of Public Administration were closely followed in the bill, including turning more responsibility over to the States, and trying to do a better job of prioritizing the resources to meet the highest environmental needs.

The Senate bill held enforcement within the operating programs at fiscal year 1995 levels, with larger reductions in Superfund enforcement commensurate with the need to slow the program down pending reauthorization. The slight reductions to enforcement, were predicated on the notion advocated by the National Academy of Public Administration and others that EPA's role as environmental top cop should change, recognizing that the States have gained significant capability over the past 25 years in enforcing environmental laws.

One of the witnesses who appeared at last year's hearing on reforming the EPA, Mary Gade, head of the Illinois EPA, stated:

The Federal Government is doing things that are now within the province of the States, which is getting out there and doing the day-to-day implementation of our environmental laws, getting out in the field and doing inspections enforcement.

We took these comments to heart in determining that some reductions to enforcement could be made, and in recognition of the EPA's role in the 21st century as one we ought to recast building on the States' growing capacity, where the States have both the ability and the determination to seek continued environmental progress.

Again, I want to reiterate the fact that these were NAPA's recommendations. It is not an effort to take the environmental cop off the beat, as some have mistakenly charged. We are looking to make changes, and significant changes that can show continued and improved progress.

While EPA's operating programs were reduced slightly in the House-Senate conference, EPA's total budget actually increased above the Senate total by \$48 million. In deference to the administration's concern that Superfund required additional funding, the conferees found \$160 million more for Superfund, despite grave reservations about how the program was working. The amount provided for actual site cleanup activities and so-called response actions represented an increase of about \$100 million over the fiscal year 1995 level. This amount ensured that all ongoing site cleanups would continue, and that funding would be available for new starts at sites posing higher risks.

In conference, just about all the so-called riders were deleted with key exceptions being provisions carried from previous years, and a provision I feel quite strongly about to prevent duplication in the Federal wetlands program.

Despite a good deal of work to make the bill acceptable to the President, we learned it was not good enough and that the President intended to veto the conference report.

We then put together a compromise proposal in an effort to get the bill enacted which would have shifted funds from the subcommittee's allocation to the President's priorities, including an additional \$240 million for EPA enforcement, Superfund, and State revolving funds, but we were unable to achieve a compromise or any negotiation, and the bill was vetoed.

This was extremely disappointing to all of us, not just because of the time we put in on this, but because of the critical need for the housing reforms along with the authorizations for such important new activities as EPA's performance partnership grants, all of which were wiped out.

The administration has indicated now an additional \$2.5 billion is needed to garner the President's support for the VA-HUD bill, including a large chunk, \$966 million, for EPA. I would like to be able to have another \$2.5 billion, too, but that simply is not possible as long as we stay with the budget constraints under which this committee is operating.

I do not have access to the tooth fairy, and we do not have the additional funds. Moreover, the administration's list of must-haves is one that I find somewhat difficult to take seriously. The \$2.5 billion price tag is staggering, but even more staggering is the fact that items like \$75 million for Boston Harbor made it onto the must-have list. This raises questions about how serious the negotiations are from the administration, and perhaps suggests that there may be other advantages to continuing the stalemate.

If you detect some frustration in my voice, it is because I have grown weary of attacks and some misstatements, mischaracterizations about this bill as being antienvironment, and the refusal to end the stalemate. I disagree strongly with those who have attempted to characterize the legislation thusly, and to the notion that it would be detrimental. It may be less than we would like in an ideal world for such activities as constructing water treatment facilities, but resources are not unlimited, and we must deal with an out-of-control Federal budget deficit.

Unfortunately, the budget impasse has resulted in EPA being shut down for the better part of a month and operations being reduced significantly. Under the current continuing resolution, EPA's budget is about \$5.3 billion compared to the \$5.7 billion in the conference agreement. Had the administration accepted the proposal for a compromise, the EPA budget would have been \$5.9 billion, and we could have avoided a lot of the shutdown, the disruption and the waste.

I think it is clearly possible to balance the budget by the year 2002. It seems that everybody has signed onto that proposition, and also to provide adequate funding for the environment. I think it is time to make some fundamental changes, however, to the structure of our Nation's environmental protection system, including moving away from some of the command and control activities of the past, which means that we ought to focus more of the working activities on the State localities, where they have the capacity and the will to do the job properly, and I think this can be done without degradation and, in fact, improved environmental protection and cleanup.

I think that is one of the messages of the NAPA report, and we will be holding a hearing. I want to work very closely with my ranking member, Senator Mikulski, who came up with the idea of the NAPA report in the first place and started that in the process, and we look forward to working with EPA and the others represented here as I hope we get beyond the budget problems for this year and begin work on a constructive path for the future.

## PREPARED STATEMENT

Today, we do want to assess how the Agency is functioning under the CR, the effects of the shutdown, and precisely what it is going to take to make this legislation acceptable to the President, so Ms. Browner, we thank you and Mr. Hansen for being here.

[The statement follows:]

## PREPARED STATEMENT OF CHRISTOPHER S. "KIT" BOND

U.S. Senator Christopher S. "Kit" Bond, Chairman of the Senate Appropriations Subcommittee on Veterans Affairs, Housing and Urban Development (VA-HUD) and Independent Agencies, called this afternoon's special hearing to examine the current budgetary situation at the Environmental Protection Agency (EPA) resulting from the President's veto last month of the appropriations measure for fiscal year 1996. In opening the hearing, Bond expressed hope that the hearing would "move beyond the blame game to talk about how this impasse can be resolved, and what the bottom line is for EPA."

The following is the complete text of Bond's opening statement:

The fiscal year 1996 appropriation for EPA resulted from a careful attempt to balance the needs of the environment, along with veterans, housing, space, science and many other programs and activities within a very tight budget allocation necessary to achieve a balanced budget by the year 2002. It resulted from studying the recommendations of the non-partisan National Academy of Public Administration (NAPA), and listening to the witnesses who appeared at a hearing I held last May on reforming EPA.

I've done my best to provide adequate funding for environmental protection. Indeed, the Senate version of the EPA appropriations bill provided slightly higher than the fiscal year 1995 budget for EPA's operating programs and state categorical grants, while the overall subcommittee allocation was reduced dramatically below 1995 levels, a fact which virtually has been ignored in the criticism of this appropriations bill. Moreover, the largest cuts in the Senate bill to EPA's budget came from Congressional earmarks for water and sewer projects, and from Superfund, a program sorely in need of reform.

The bill closely mirrored recommendations made by the National Academy of Public Administration, including turning more responsibility over to the states and better prioritizing resources to meet the highest environmental risks. The Senate bill held enforcement within the operating programs at fiscal year 1995 levels, with larger reductions in Superfund enforcement commensurate with the need to slow this program down pending reauthorization. Reductions to enforcement were predicated on the notion advocated by the National Academy of Public Administration and others that EPA's role as the environmental cop must change, recognizing that states have gained significant capability over the past 25 years in enforcing environmental laws.

Quoting from a witness who appeared at last year's hearing on reforming EPA, Mary Gade, head of Illinois' EPA, stated "the Federal government is doing things that are now within the province of the states, which is getting out there and doing the day-to-day implementation of our environmental laws, getting out in the field and doing inspections, enforcement \* \* \*." We took comments like these to heart in determining that some reductions to enforcement were appropriate, and in recognition that EPA's role in the 21st century ought to be recast, building on the States' growing capacity. Again, these were NAPA's recommendations, and I want to emphasize that. Implementing these recommendations is not tantamount to taking the environmental cop off the beat, as we have heard. We were attempting to make some significant—but much-needed—changes.

While EPA's operating programs were reduced slightly in the House-Senate conference, EPA's total budget actually increased above the Senate total by \$48 million. In deference to the administration's concerns that Superfund required additional funding, the conferees found \$160 million more for Superfund, despite grave reservations about how the program was working. The amount provided for actual site cleanup activities—so-called 'response actions'—represented an increase of about \$100 million over the fiscal year 1995 level. This amount ensured that all ongoing site cleanups would continue, and that funding would be available for new starts at sites posing high risks.

In conference, just about all of the so-called riders were deleted, with the key exceptions being provisions carried from previous years and a provision I feel quite strongly about to prevent duplication in the federal wetlands program. Despite a

good deal of work to make the bill acceptable to the President, we learned it wasn't good enough and the President intended to veto the conference report. I then put together a compromise proposal, in an effort to get the bill enacted, which would have shifted funds within the Subcommittee's allocation to the President's priorities, including an additional \$240 million for EPA enforcement, Superfund and state revolving funds. Yet, the White House was not interested in negotiating a compromise and the President vetoed the bill.

This was extremely disappointing, since we had worked for the better part of a year to put together this vital legislation. Critically needed housing reforms, along with authorizations for such important new activities as EPA's performance partnership grants, were wiped out by the President's veto pen. The Administration has indicated an additional \$2.5 billion is necessary to garner the President's support for the VA-HUD bill, including \$966 million for EPA. I'd like another \$2.5 billion too, but this simply isn't possible if we want to balance the budget. I'm not the tooth fairy and I must deal with the reality of what it takes to balance the budget.

Moreover, the administration's list of 'must-haves' is difficult to take seriously. The \$2.5 billion pricetag is staggering, but even more staggering is the fact that items like \$75 million for Boston Harbor made it onto this 'must-have' list. It would appear that the administration is not serious about negotiating a solution, and has decided that stonewalling is politically advantageous.

If you detect some frustration, it's because I've grown quite weary of the attacks and demagoguing, being pilloried as anti-environment and the refusal to end this stalemate. I take strong exception to the way this legislation has been characterized, and to the notion that it will be detrimental to the environment. It may be less than we'd like in an ideal world for such activities as constructing water treatment facilities, but resources are not unlimited and we must deal with an out-of-control federal budget deficit.

Unfortunately, this budget impasse has resulted in EPA being shut down for the better part of a month and operations being reduced significantly. Under the current continuing resolution, EPA's budget is approximately \$5.3 billion, compared to \$5.7 billion in the conference agreement. Had the administration accepted our compromise last month, EPA's budget would have been \$5.9 billion, \$600 million more than the current C.R. level. The disruption, waste and uncertainty associated with the shutdown could have been avoided.

I believe it is possible both to balance the budget by the year 2002 and provide adequate funding for the environment. I believe it may be time to make some fundamental changes to our nation's environmental protection system—including moving away from the punitive, command-and-control system of the past—which should result in lower resource needs for EPA. But, this can be accomplished without degradation to the environment. The NAPA report of one year ago made this clear. We will hold a special hearing within the next month to focus on such comprehensive reforms. Today, I'd like to assess how the agency is functioning under the C.R., the effects of the shutdown and precisely what it will take to make the EPA spending legislation acceptable to the President.

#### STATEMENT OF BARBARA MIKULSKI

**Senator BOND.** I will now turn to my ranking member, Senator Mikulski.

**Senator MIKULSKI.** Thank you, Mr. Chairman.

Administrator Browner, we welcome you to this hearing. I know this has been a tough month for the employees at EPA. There has been nothing as demoralizing as the shutdown, and there has been nothing as demoralizing as these artificial categories between essential and nonessential. I believe that all the employees at EPA are essential, and that they should be given value accordingly, but not to know if you were going to have your bills paid or your mortgage paid and all of these things have been enormously, I think, draining on morale.

I would hope that in this process of shutdown we have not permanently destroyed the morale of the Federal civil service, and I hope we have not destroyed the ethic of civil service in this country. I think we need to repair many environments, not only our

physical environment but the environment in which Federal employees have been laboring.

Having said that, I believe that as we go forth in this continuing resolution and in the budget, I know Senator Bond has worked very hard to provide real leadership, and he worked very hard to provide an \$800 million add-back over what the House had done, and even offered to add an additional \$240 million to see if we could get the bill signed, as also providing the leadership to get rid of pretty draconian riders that came from the House, so we made, we think, important strides.

But the fact remains that the conference agreement cuts EPA by \$1.7 billion below the President's request and about \$1 billion below current levels, and it is ironic, because I understand the world is beating down our door for American environmental expertise, both governmental, nonprofit, and profitmaking in terms of how they can clean up their environments, so while we are shutting ourselves down the world is knocking on our doors to learn from you, from the nonprofit sector, and from the private sector community that has worked on environmental degradation, cleanup, and so on.

Where we find ourselves, I believe, now is a 25-percent reduction for environmental enforcement, a 45-percent cut in funds needed for community drinking water, 30-percent cut in funds to States to build wastewater treatment plants, which I hear all over the State of Maryland, and a 25-percent cut in Superfund hazardous waste cleanup.

The American people do want clean air and clean drinking water, they want to clean up contaminated sites, and they want us to oppose efforts to weaken the environmental laws. They want us to operate on common sense and find common ground. I hope we can continue to do that.

I do not want to see any more cuts in the EPA's budget, and I cannot support that, but I do not want to see another shutdown, so I will be supporting the CR, even though it is a melancholy choice.

Mr. Chairman, you tried hard to save this bill, but we were dealt a skimpy allocation, a function of the original budget resolution. With or without a budget deal I know we will continue to work together and hope we can come up with a bill that the President can sign to provide safety for the environment.

Senator BOND. Thank you very much, Senator Mikulski.

Senator Lautenberg.

#### STATEMENT OF FRANK R. LAUTENBERG

Senator LAUTENBERG. Thank you very much, Mr. Chairman. I thank you for holding this hearing. I am delighted to welcome Administrator Browner to this subcommittee, and the team that you represent.

Before I begin, I want to commend you, Ms. Browner, for the outstanding job that you have done at EPA. Your leadership has been critical, and it has been there during a very difficult period of time, you have my thanks.

I would also ask you to pass on to the employees of the Agency my apology for the way we have treated them. We are addressing only one agency at the moment, so I confine my remarks to EPA.

I have been here long enough to see what happened when we interrupted the process at EPA—I talk particularly about Superfund, but this also includes the other programs, clean water, clean air, you name it—when we told people through the year 1985 pretty much that we did not know whether we were going to be operating again or not, and then we found ourselves having to apologize because we could not get the work underway even though we had the funding because we did not have the skilled personnel available.

People were appropriately looking for ways to take care of their families and their obligations. Their first assignment is not to their job, their first assignment is to their families and themselves, and what we have done around here is outrageous. Again, from this Senator's standpoint, I apologize.

These are difficult times for the Agency, and for all of us who are committed to environmental protection, and it is interesting for me to see how many people are committed to environmental protection, both parties, both Houses, even those who would have recommended much different approaches and environmental riders, you name it.

But the newspapers are reporting that the American people do not like what they see. They do not want to see foul air and foul water, and they do not want to see their children's health endangered by pollution all over the place. They want to see streams with fish, and they want to be able to go swimming, and they want to tell their kids that we worked hard to protect the environment. We also have to pay the price for it. We paid the price for it. Now we are trying to recover.

So I again thank you for all of the work done by the people at EPA, and also for other loyal Government servants.

I want to take the opportunity to thank our chairman and ranking member for the work they have done this past year on behalf of the environment. As is perhaps obvious, I have been strongly critical of the legislation we have produced, but we cannot deny the economic conditions under which we are forced to operate, and Chairman Bond and the ranking member's efforts to improve some of the proposals that have come over from the House are appreciated. They deserve real credit for that, even though we are operating under very tough constraints caused by broader decisions about the budget.

Unfortunately, over the past weeks the EPA has been operating under an inadequate continuing resolution. In fact, the whole way that the Congress has handled the budget has created a situation that can only be described as nightmarish.

The Federal Government has staggered from shutdown to shutdown, from short-term funding measure to short-term funding measure, from uncertainty to further uncertainty. This kind of indecision and chaos would never be tolerated in the private sector. I know. That is where I fondly look back at times. This situation is having serious effects on environmental protection.

Continued reliance on CR's of this type would never be tolerated in the private sector, otherwise they would turn over the board of directors, all 535 of them.

If the CR's funding level that EPA has endured over the past week had continued to the end of the fiscal year, EPA would have been forced to furlough every employee who works in Superfund for about 38 days. Other parts of the agency would have to be furloughed for even a longer period of time.

As a practical matter, that would mean months of no inspection, no enforcement action, no telephone hotlines for drinking water, Superfund, or radon. Funding at the conference appropriation level would, of course, be better, but it is still not adequate.

As many as 300 Superfund site cleanups would not be started, and, therefore, there would be significant delays at many other sites. This would jeopardize many American families who live near hazardous waste sites.

And these levels were meant to be punitive, to blackmail the President to accept unacceptable budgets. Now is the time for this strategy to end.

And even at the appropriations conference level, EPA would be required to furlough all of its employees from 10 to 12 days of the fiscal year. Needless to say, Mr. Chairman, that amount of furloughs would have had a devastating impact on EPA's employees. Hard-working people, biologists, geologists, hydrologists, chemists, and other professionals would be forced to assume a pay cut of over 10 percent. These are real people leading real lives with real families, with little kids to feed, with mortgages and rent payments due, not different than any other Americans.

Many are going to find themselves in financial distress as a result of these conditions. The Federal Government employees are not the only ones impacted. EPA has followed the privatization route, and over 82 percent of the money in Superfund and 55 percent of the rest of the agency is spent with private contractors, private contractors employing many more employees than EPA, and those employees are going to feel the impact just like those who were furloughed on Government jobs.

As we all know, EPA is not an agency with a fat budget. It has been underfunded for years, complicated, yes, and bureaucrats, of course. We are a bureaucracy, and that is the way we have to function. It is just like a company. EPA has already eliminated all of its temporary employees in the agency and has now 1,300 employees, less than it had at its authorized ceiling.

And some here like to argue that a balanced budget does not require actual cuts, just decreases in the rate of increases, but in EPA's case, both the CR and the conference report on the VA-HUD bill require real cuts, real decreases, real attempts to turn back the clock on environmental protection.

Mr. Chairman, our country has made enormous progress since the environmental movement was ignited by Earth Day in 1970. Environmental laws have made our water safer to drink, and cleaned up our oceans and rivers, made the air cleaner, and protected our land from further degradation. We cannot afford to turn back the clock.

Thank you, Mr. Chairman.

Senator BOND. Thank you, Senator Lautenberg.  
Ms. Browner.

STATEMENT OF CAROL BROWNER

Ms. BROWNER. Mr. Chairman, Senator Mikulski, Senator Lautenberg, I welcome this opportunity to come before you once again to discuss EPA's budget for this year. I certainly appreciate the efforts that you have made to ensure an adequate funding level for EPA. However, I continue to have grave concerns about our ability under the 1996 appropriations bill to protect the health of the people in this country, the air, the water, the land which we all must share.

Mr. Chairman, you, Senator Mikulski, and your staff have certainly improved the funding level over the draconian reductions contained in the House proposal. However, the final conference bill is not adequate to protect the public's health and our environment. That is why the President vetoed the bill.

The shutdowns, the continuing resolutions, the starts, the stops, have already taken a toll on public health and environmental protection. Unfortunately, the conference bill does not allow us to overcome the problems created thus far this fiscal year and is inadequate to fund the challenges we face.

The bill's cuts would let the polluters off the hook. It would slow the cleanup of toxic waste sites. It would lower our guard against drinking water contamination and raw sewage in rivers and lakes.

IMPACTS OF REDUCTIONS

Taken together, the months of disruption and the conference bill mean that our air, our water, our land will not be as safe. Among the impacts:

First, a reduction in environmental inspections and enforcement.

Second, significant delays in efforts to protect our drinking water, including work to protect our citizens from cryptosporidium in their tap water.

Third, reductions in resources for wastewater treatment facilities and dollars to communities to keep raw sewage out of our rivers and lakes.

Fourth, delays in toxic waste cleanups in communities across this country.

Fifth, limitations on the public's right to know about toxic chemicals in their neighborhoods.

Sixth, reductions in safety review and registration of pesticides, including safer alternatives to help the farmers of this country.

Seventh, delays in important standards to control toxic air pollution, industrial discharges to our rivers and streams, as well as other regulations that would protect the public and cut paperwork for the businesses of this country.

Eighth and finally, delays in scientific research.

During this time of disruption, we at EPA have sought to balance our commitments. We have sought to implement and enforce this Nation's environmental laws. In keeping with the NAPA recommendations, we have sought to continue our efforts to cut red tape and to change the process of environmental regulation. We have worked very hard to provide our State partners with consist-

ent technical and funding support. However, it is increasingly difficult, and in some areas all but impossible to do our job.

I want to share with you two charts. This is a list of the 42 toxic air pollutants we were going to propose standards for, to protect the public's health this year. Now, we will do 8, 11 will be delayed because of the shutdown, and 23 because of the funding levels. Communities will be denied public health standards for toxic air pollutants.

[The information follows:]

#### DRINKING WATER CONTAMINANTS

*1. Rule to collect data on harmful drinking water contaminants delayed due to shutdown.*—Information collection rule for cryptosporidium and disinfection byproducts (data collection for 30 potentially harmful chemicals and microbials).

*5. Standards delayed due to reduced funding.*—Enhanced surface water treatment rule—interim; Enhanced surface water treatment rule—final; Disinfection byproducts—stage 1; Disinfection byproducts—stage 2; Groundwater disinfection.

#### INDUSTRIAL WATER POLLUTION CONTROLS

*Will be delayed.*—Coastal oil and gas operations; Some metal products & machinery manufacturers; Centralized hazardous waste treaters; Pesticides handling.

*May be delayed/uncertain.*—Pulp & paper manufacturers; Pharmaceutical manufacturers.

#### INDUSTRIAL TOXIC AIR POLLUTANTS

*8. Remaining standards will be proposed on time in 1996.*—Ferroalloy production; Mineral wool production; Primary aluminum; Primary copper; Pulp & paper (includes 3 standards); Steel pickling.

*11. Standards delayed due to the shutdown.*—Acrylic/modacrylic fibers; Tetrahydrobenzaldehyde manufacturing; Chromium chemical manufacturing; Stainless & non-stainless steel; Flexible polyurethane foam production; Nylon 6 production; Petroleum refineries; Pharmaceuticals production; Semicommercial pulping; Wood treatment; Wool fiberglass production.

*23. Standards delayed due to reduced funding.*—Agriculture chemicals production (includes 9 standards); Chlorine manufacturing; Cyanide-chemicals production (includes 3 standards); Oil & natural gas production; Polycarbonates production; Polyether polyols production; Polymers and resins III (includes 3 standards); Portland cement manufacturing; Primary lead smelting; Reinforced plastic composites production; Secondary aluminum production.

Ms. BROWNER. In our water program, we had hoped this year to be able to reduce by 1 billion pounds a year the amount of chemical discharges to our rivers and lakes. Already delayed—we will not do it this year—are four. Affected are another two.

The cuts which we have had to manage, the cuts in the conference bill, also exact a serious human toll on EPA's dedicated work force and our private sector contractors. Together, these individuals work with our State and local government partners to provide this country with the public health and environmental protection they deserve.

As you are aware, Mr. Chairman, as soon as the House released its proposed funding levels for EPA last July, we moved immediately to take a set of very difficult, but we believed prudent, management actions. These included a hiring freeze, a promotion freeze, and postponement of contracts. The EPA work force today is 1,500 people smaller than last July.

Already, we have experienced an 8-percent reduction in the work force at EPA. As a result of the uncertainty, the cutbacks, the bright, young dedicated people who are so important to our work

are leaving. These are the employees who are essential to our efforts to effect common sense changes in environmental regulations.

The average age of the people leaving EPA since July is 34 years old. The lifeblood of the agency is being drained. They cannot endure the uncertainty. All of us at EPA, our private sector partners and Members of Congress alike, face challenges in this era of reduced Federal resources. However, within an era of limited Federal resources we must protect our health, the health of our families, our communities, and our economy.

The President has proposed a plan to balance the budget while protecting public health and our environment. As I testified here last February, the President's budget for EPA supports sound, strategic investments that will enable us to take commonsense, cost-effective, consensus-based actions, that will work for real people in real communities, to achieve the very best environmental results at the least cost.

#### PREPARED STATEMENT

I stand ready to work with you, Mr. Chairman, and the members of your subcommittee, to reach an agreement that will enable us to protect the American people and to meet the challenge that President Clinton put forward in his State of the Union Address to leave our environment safe and clean for the next generation.

Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF CAROL M. BROWNER

Mr. Chairman, I appreciate the opportunity you, Senator Mikulski and the members of your Subcommittee have given me to come before you once again to discuss EPA's budget for fiscal year 1996. I also commend you and Senator Mikulski for the efforts you have made to ensure an adequate level of funding for public health and environmental protection programs.

As I testified here last February, the President's 1996 Budget for the U.S. Environmental Protection Agency reflects the President's firm belief that within this era of limited federal resources, we must protect our health—the health of our families, the health of our communities, and the health of our economy.

Two years ago, I began redirecting the agency away from the pollutant-by-pollutant, one-size-fits-all regulations of the past. In place of that approach, we are moving toward a new, comprehensive approach to achieve results that are cleaner for the environment, cheaper for business and taxpayers, and smarter for America's future. Industry by industry, community by community, we are working to achieve the very best environmental results at the least cost.

As I testified in February, the President's budget for EPA supported sound, strategic investments:

- We targeted our resources toward the highest-risk environmental problems;
- We strengthened our partnerships with states, tribes, communities, businesses, and the public. Over one-half of our resources were dedicated to state, local, tribal and other partners;
- We strengthened our science;
- We provided increased flexibility and opportunities for innovation to improve the current regulatory structure;
- We continued our efforts not only to enforce the laws but to help businesses comply with those laws in the first place.

The Senate version of EPA's budget offered improvements over the draconian reductions contained in the House proposal:

- The Senate version provided an additional \$769 million in total funding above the level proposed by the House;
- The Senate version eliminated many of the House riders;
- The Senate version restored the \$500 million reduction proposed by the House to the Drinking Water State Revolving Fund;

—The Senate version returned approximately \$160 million to the enforcement program over the nearly 50 percent reduction proposed by the House.

However, the bill presented by the Senate did not go far enough. Further, the bill adopted by the Conference committee would be even more damaging to our efforts to protect the environment. Harmful cuts remained that would let polluters off the hook, slow cleanups of toxic waste sites, and lower our safeguards against drinking water contamination and raw sewage in rivers and beaches.

What we see in Congress is an effort not only to stop but to literally roll back progress.

As President Clinton said in his State of the Union Address on Tuesday night, we must continue the bipartisan progress of the past 25 years. We must not compromise the health of the people of this country and the air, the water, and the land we all must share.

The conference level budget represents a severe cutback that will not allow us to adequately protect public health and our environment. Our air, our water, our land will not be as safe.

The conference budget contains only a \$5.7 billion fiscal year 1996 budget for EPA, a reduction of 23 percent, or \$1.7 billion from the President's fiscal year 1996 budget request. In percentage terms, this reduction was almost twice the percentage reduction supported by Congress to Non-Defense Discretionary spending as a whole. Also, in 1995 we sustained a rescission of \$1.3 billion in fiscal year 1995 and prior year appropriations.

An area of great concern is the conference report's proposed 27 percent cut in enforcement of all environmental programs (-\$116 million) from the President's fiscal year 1996 budget, and 20 percent cut (-\$78 million) from fiscal year 1995. Over the last two years, we have fundamentally changed our enforcement program. Our Office of Enforcement and Compliance now uses a broad range of tools to achieve public health protection. These tools span from one-on-one partnership with a small business or local community to help them understand how to comply with public health standards to a civil and criminal enforcement program to address serious public threats and ensure the polluter—not the taxpayer pays.

We have put in place new policies for small businesses, small communities and for those that voluntarily disclose violations. These policies reward responsible entities for addressing environmental compliance issues. We have set a new framework for working with our state partners, who do the bulk of enforcement work today. Our challenge today is to assure these new initiatives are implemented, while maintaining a needed presence in traditional enforcement. The next several years will be critical for implementing these new directions. We cannot achieve a more effective program with significant budget cuts. A 27 percent reduction would force us to cancel many health and safety inspections and send a message to polluters that the environmental cop is not on the beat.

At a time when scientific evidence suggests there is a strong connection between the burning of fossil fuels and changes in climate, the conference bill cuts by 40 percent funds that are used to reduce emissions of carbon dioxide and other green house gases that contribute to global warming.

Thirty million Americans get their drinking water from systems that violated public health standards within the past year. The budget proposed by the conferees would severely reduce the funds available to help systems upgrade to address these violations with a 45 percent cut in state loan funds (-\$225 million). President Clinton's fiscal year 1996 budget request provided \$500 million in loan funds that would go straight to the states for use in protecting drinking water nationwide.

The conference budget cuts by 29 percent funds that go straight to the states to help keep raw sewage off beaches and out of waterways (-\$462 million). President Clinton's fiscal year 1996 budget provided \$1.6 billion in funds for states to build wastewater treatment plants that keep raw sewage from flowing into our rivers, lakes and streams.

One American in four lives near a toxic waste dump. The Clinton Administration has accelerated the pace of Superfund cleanups to return these sites to productive use. The conference bill cuts funding of hazardous waste site cleanup by 26 percent—a cut of \$400 million from the President's request, 13 percent less (-\$168 million) than fiscal year 1995. A funding cut at this level would halt or delay cleanups in communities across the country.

The conference bill prevents EPA from stopping the dumping of potentially toxic fill into rivers, lakes and wetlands. Wetlands are vital to safe, clean water as natural filters that clean water so it's suitable for drinking, and to healthy fisheries because they provide fish and wildlife habitat and help to control flooding.

The severe cuts proposed in the conference bill will exact a human toll on EPA's dedicated workforce of 17,000 federal employees. Since I came to the Agency in

1993, I have been committed to responsible management of our resources. Almost immediately, we began to work with the Congress to bring work in key areas in-house, resulting in better program control, management and fiscal savings.

In 1996, the Administration's request supported our growing responsibilities. But as soon as the House released its proposed funding levels for the Agency, we moved immediately to take prudent management actions. These actions have been difficult for the Agency—but they have placed us in a better position as we continue to function under CR's. Currently we are roughly 1,500 FTE below our ceiling. But although our on-board workforce continues to shrink, we are still committed to supporting our statutory responsibilities, to changing the way we do business with the regulated community, and to providing assistance to our partners.

The reductions also will affect the 15,000 private-sector contractors who perform necessary analysis and support for this country's environmental protection work. Already, with the severely limited budget we have been operating under since November, many contracts have been postponed indefinitely. The private contractors have felt the pain of these delays, shutdowns, and re-startups of their work. Inadequate funding levels would cause further disruption of work by private sector contractors as well as Federal employees.

We also recognize that the last few months have been disruptive for our State partners. Let me assure you that we have taken steps to provide States with operating funds under the short terms CR's in order to provide as much certainty to the States as possible.

Continued cuts to environmental protection would cripple the Agency's efforts to fulfill its mission. With such cuts, I would be forced to consider several drastic actions, in terms of programs and personnel, above and beyond the measures I have already taken to date.

The long term effects of inadequate funding and continued disruptions could have disastrous consequences:

- Annual environmental inspections and enforcement actions could be reduced by as many as 3,000 inspections for the year—an estimated 25 percent to 30 percent loss that could reduce resulting enforcement actions by as many as 1,300;
- New efforts to protect our drinking water may be significantly delayed. This includes work to develop tap water standards for pollutants like cryptosporidium as well as cancer causing substances like disinfectant by-products, which may cause zero to 10,000 cases of cancer per year;
- Resources for the wastewater treatment program, where dollars are provided to local governments to reduce the discharge of raw sewage into rivers and lakes, will be reduced;
- Toxic waste cleanups planned for this year may not begin;
- A 20 to 30 percent overall reduction in the number of pesticides reviewed for safety registration could occur.

All of us at EPA, our private sector partners, and Members of Congress alike recognize the challenges that we face in an era of reduced federal resources. But we need not and we must not compromise the future of a safe and healthy environment in our efforts to balance the budget.

The President has proposed a plan to balance the budget while providing an adequate level of funding for public health and environmental protection. It is my hope that the Congress will act quickly to provide us with the resources we need to protect the health of the American people, provide the resources and the tools for us to do our job, and keep the environmental cop on the beat.

What does doing our job mean? It means meeting our statutory responsibilities—setting standards based on sound science, implementing programs where it makes the most sense for direct Federal action—for example, issuing permits to businesses, and registering potentially dangerous pesticides.

It means continuing to reinvent the way we do business through our regulatory reinvention efforts like Brownfields, Project XL, and the Common Sense Initiative.

It means being a resource for our State partners. The conference bill protects State grants, but we need resources for the technical assistance we provide to the States.

For 25 years, Americans of both parties have united to protect our health by protecting the air we breathe, the water we drink, the land on which we live—and together, we have made tremendous progress. Let us restore the bipartisan commitment to public health and environmental protection so that we may continue that progress.

I look forward to working with you, Mr. Chairman, and with the subcommittee as budget negotiations continue. We must do all that we can to meet President Clinton's fifth challenge in his State of the Union Address: " \* \* \* leave our environment safe and clean for the next generation."

I am happy to answer any questions.

#### BUDGET LEVELS

Senator BOND. Thank you very much, Ms. Browner.

There are a couple of questions I had, factual questions that I think we are going to have to have the staff look at.

Your written statement refers to a cut of 27 percent from the President's budget and 20 percent from the fiscal year 1995 level for enforcement, yet the numbers that your budget office gave us show reductions of 22 and 14 percent, so we can clear that up to make sure at least we are dealing with the same numbers.

We would also like to see the information on toxic air pollutants and the billion pounds of water pollutants. As you know, we are still trying to get safe drinking water authorized, so we can start spending money. We have \$500 million ready to go if we can get an authorization bill through. We hope that the Senate measure will go forward.

In your statement you referred to, people are focused on the President's budget request of 1 year ago. That budget is one which I do not believe is operative any longer, because of the new commitment to a balanced budget in 7 years. I suppose we should be dealing with whatever the appropriate level of request is in the revised budget. Would that not make sense?

Ms. BROWNER. The test for me is, do we have the tools and resources to do our job?

Obviously, there have been discussions within the congressional leadership with the President and Vice President. I know the President and Vice President have consistently maintained that in looking to balance the budget we must protect environmental protection and public health. There have been, as we are both aware, discussions about what that may mean in terms of 1996.

Senator BOND. The problem that we have had is that while we have tried within our budget allocation to provide additional funds and work successfully with the House in many areas to raise the funds, we have had requests from back in November where the administration said it needed \$1.9 billion more. A month later the list had grown to \$2.5 billion.

Given the constraints of the budget, it makes it very difficult for us to negotiate that, because they were not able to identify any places we could cut if we were to put more money into environmental protection or environmental enforcement.

When you take a look at the list—let me ask, do you know if the administration is willing again to begin to discuss with us now the overall budget guidelines? I think we had a conference by telephone, either at the end of November or early December, when I asked if you could help us get through to somebody who would take my phone calls. Is there any chance of that?

Ms. BROWNER. I think we are both well aware of the fact that unfortunately the 1996 issues have been caught up in the larger discussion. I think the White House would be more than happy to see the 1996 issues resolved. Certainly at EPA we would be more than happy. We need to know how much money we have to spend so we can make these difficult decisions and get on with doing our job of public health and environmental protection.

As I understand the situation, there is not a willingness on the part of the leadership in the Congress to allow the 1996 issues to be resolved. Now, maybe I misunderstand something.

#### PRIORITIZATION OF ADDITIONAL REQUEST

Senator BOND. We cannot resolve large issues, but the ranking member and I with our committee members are supposed to resolve this issue, and we have not had the telephone calls returned, so sometimes you have to resolve these one step at a time, and we would be delighted to sit down to work on these matters if we could hear from somebody.

Let me ask you about some of the things that are needed, though, because when we look at the request, the additional request that the President has made in EPA for almost \$966 million, there are items like construction funds for a new laboratory and grants for environmental technology.

While these might be nice, I would personally like to see, if we had additional funds, funds go to things like State revolving funds.

What are your priorities, your absolute priorities within the areas of requests that you have made for additional funds?

Ms. BROWNER. Certainly, additional moneys to the States is a priority that we share with you. Our concerns are in the following areas:

Enforcement. There is a directed cut in the conference bill to our enforcement program, and we would certainly appreciate guidance from this subcommittee as to how we are supposed to manage that.

Under the continuing resolution, which you are hopefully adopting today, there is an ambiguity in the bill as to whether or not we are to begin to take these directed cuts. We do not agree with them. We think enforcement is a very important part of what we do. We would certainly appreciate your guidance as to how to resolve the ambiguity in the language with respect to directed cuts under the new CR.

We want the resources for enforcement and Superfund. We believe it is important to the communities across this country with Superfund sites to allow us to maintain the pace of cleanups. We have made tremendous progress in the last 2½ years in expediting the pace of cleanups. We want to maintain that current pace of cleanups.

We believe that the issues of global climate change are very serious and that they need to be addressed. We believe that helping to find the new technologies, the new answers to the challenges we face, is part of what the Environmental Protection Agency has always done and should do in the future.

Drinking water and clean water are important. As you have said, providing additional resources to the States to upgrade those facilities to ensure safe, clean water for their citizens to drink is important.

Our EPM account. That is an acronym that does not mean much to the public, but it is the place where we literally do everything from set standards to issue permits. It is where we do the work with the States that go beyond the grants that we provide. When a State calls up and says, we are having a problem, we do not

know what the best way is to resolve it, it is out of that account that the expenditure is made to help the State.

The list made reference to a building that is a state-of-the-art science facility—

Senator BOND. Are you going to list the whole \$966 million?

Ms. BROWNER. I am done. This is the last one.

Senator BOND. How much have you listed out of that \$966 million?

Ms. BROWNER. That is it.

Senator BOND. You are saying you want the whole \$966 million, because the first three are areas where we propose to add about \$240 million, the State revolving funds, enforcement, and the EPM account, and Superfund.

Ms. BROWNER. We appreciate that your proposal did add money in those accounts.

Senator BOND. But are you saying everything is a priority? It sounds like I am starting to hear that everything is a priority, and I guess that comes down to the point where if we cannot reach an agreement there may be nothing but a continuing resolution at the lower level.

Ms. BROWNER. Even with these priorities funded, EPA would still be taking a cut. It is not as if we have been unwilling to do our part.

At these levels that we are discussing here, the 1,500-person reduction in our work force, the 8-percent reduction is not coming back. That is gone. This is not about bringing those people back. They are lost to our effort.

So I do understand your proposal. Obviously, we think it was an important proposal. It certainly was a significant step in the right direction, but we believe there are additional priorities that need to be addressed.

Senator BOND. Senator Mikulski.

#### IMPACT TO PAYROLL

Senator MIKULSKI. Thank you. Administrator Browner, I know that the CR was just framed really overnight, and I am sure you are looking at the consequences to this, but to the best you can tell us today, and we will look forward to further information later on this week, could you tell us first of all, no matter what the priorities are, you need people and contractors to do it, and that is the way EPA works with its own staff, working with State governments and delegated authority and then, of course, working with private sector contracts to do the work.

Could you tell us—as I understand it, the conference agreement, which is also that part of the continuing resolution, as I understand it this results in a \$52 million shortfall in payroll, is that right? What is the impact on payroll under the rules and funding levels that we are operating?

Therefore, what does that mean to employees related to furlough, termination, temporary furlough, and permanent furlough?

Ms. BROWNER. If I might, just very very briefly, remind everyone that there are a couple of pots that we deal with at EPA. There is the toxic waste cleanup program Superfund; there is the money that we give to the States; there is the science and technology ac-

count that we all have agreed to; and there is everything else we do, which is called the EPM account. I think the question you pose goes to what are the effects within the EPM part of the activities at EPA, enforcement, standard-setting, permitting.

You are correct that, as we understand the conference report, there is a target reduction within that account. The effect is up to 19 furlough days if taken across that entire account.

Now, there are some specific reductions in the conference report. For example, our enforcement program takes a targeted cut beyond the across-the-board cut, which means that within our enforcement program it is much more dramatic.

Senator MIKULSKI. Well, what does that mean? Does that mean layoffs, and when we talk about a furlough, does that mean you do not work and you do not get paid for it, but you are essentially temporarily unemployed at EPA?

Ms. BROWNER. That is exactly right.

Senator MIKULESKI. With no unemployment benefit?

Ms. BROWNER. As I understand the law, you are eligible to apply for unemployment benefits when furloughed under certain conditions, but you are exactly right, people do not come to work. They are not able to do their job, and they do not get paid.

Senator MIKULSKI. So the job does not get done, and obviously the workers are demoralized.

Ms. BROWNER. Absolutely.

#### IMPACT TO CONTRACTORS

Senator MIKULSKI. Now, could you talk about the impact of the situation and what we faced in December and part of January with the private contractors that we rely upon, whether it is for Superfund cleanup, or so many of the other things that are done through private contracting, engineering firms and so on?

Ms. BROWNER. The private sector, as you know, is a very important part of how we do our work. We look to them for our expertise, we look to them for cleanup activities. Our contractors were affected because of the shutdown and because of the CR levels. We are aware of the fact that in some instances they actually had to furlough people. The dollars were not available.

Senator MIKULSKI. Were the contractors paid during the furlough—I mean, the shutdown?

Ms. BROWNER. If the contracts that we entered into were funded, then they were carried forward. In many instances they were not. The money was not there, and some of the private firms that we deal with felt they had to make the decision to lay off people.

Senator MIKULSKI. And now that we are back in business and it looks like we are going to fund this CR through March, which is a hell of a way to be doing business, through a CR process rather than passing an appropriation, or just passing a year-long CR—at least if we passed a year-long CR, even though we would not like it, you would at least know, and your contractors and so on in the States would know what it is.

Now, I am not advocating that. I would hope that we could come to agreement on a conference, add perhaps another \$1 billion and be able to move on, but those contractors—will you be able to get

contractors with now this history of shutdown and confusion and so on?

Ms. BROWNER. We certainly know, and have heard from the private sector we deal with, about just how difficult this uncertainty is for them, including the fact that they also maintain a work force and they cannot make commitments to their work force.

The ripple effects are tremendous because of the uncertainty, both in terms of people who work very hard in behalf of the citizens of this country to provide public health protections and the people of this country who are not receiving those protections.

#### CR TERMS AND CONDITIONS

Senator MIKULSKI. Now, we heard earlier from Mr. Cisneros that we are operating with 1996 money in the continuing resolution at the conference, but under 1995 terms and rules. What impact does that have? I mean, Cisneros, Bond, Mikulski, came up with a really wonderful substantial set of reforms that would have helped the poor, local communities and so on. How does this affect you, you meaning EPA?

Ms. BROWNER. Let me give you one very important example. The chairman spoke to performance partnerships, which is a new way of doing business with the State environmental agencies. That authority is in the 1996 bill. We will not have that authority if we operate under the 1995 bill terms and conditions. We will not be able to give the States the flexibility which we are eager to give them to allow them to prioritize, to set the agenda State by State to address the most pressing environmental concerns within the State.

Senator MIKULSKI. And much of the reforms that were talked about in the National Association of Public Administrators, the report that I commissioned, and we have all had a hearing, essentially the management performance, the streamlining of management, the beginning of the streamlining of regulations, the focus on risk-based priorities, all of that is in the 1996 conference, but you cannot implement it, which could either result in the savings of money or the savings of hassle.

Ms. BROWNER. That is right.

Senator MIKULSKI. In other words, we were trying to diminish the hassle factor for State and local governments and private sector, et cetera.

Ms. BROWNER. There is certainly some very important language in the conference report in the bill that would give us the flexibility that we believe is important to the work that we do.

I might say, Senator, that I have, even under this very difficult situation, continued to make a priority such programs as our commonsense initiative, a fundamentally different way of dealing with the industrial sectors of this country, Project XL and regulatory reinvention. We are moving resources to shore those programs up, but this then affects other parts of what we do.

Senator MIKULSKI. It has got to come from somewhere.

Ms. BROWNER. You are robbing one to pay the other.

Senator MIKULSKI. The yellow light is on here.

## CR IMPACT TO CHESAPEAKE BAY

My last question, if you would be so kind, what is the impact of this continuing revolution on the funding of the Chesapeake Bay program, which is a model for the Nation that, as you know, with snow and flood there has been tremendous dumping in the bay from raw sewage. None of it was malevolent. It was all because of the consequences of these very severe weather situations. Could you tell us the impact on the bay program?

Ms. BROWNER. One of the most important things EPA and the Congress do for the States is to provide dollars to local communities to upgrade their wastewater treatment facilities. Under the conference level, those dollars are reduced. There will not be money available to the States that make up the Chesapeake Bay system to upgrade the facilities in the ways that they had hoped.

There are also obviously effects on our ability to continue the monitoring, research, and technical assistance that we provide within the bay to all of our partners, farmers, cities, States, and industry.

The Chesapeake Bay, the Great Lakes, the Florida Everglades, the San Francisco Bay Delta, these are some of the most important national resources we have. We are doing everything we can to continue to meet our obligations to fulfill our responsibilities, but again, it means we are taking it from somewhere else.

Senator MIKULSKI. I know Senator Lautenberg will ask the question, but there was a specific Chesapeake Bay program that was started by my predecessor, Senator Mathias, and continued by three Presidents, Reagan, Bush, and Clinton. I would like to know the impact of that.

[The information follows:]

## IMPACT OF CONFERENCE LEVELS ON THE CHESAPEAKE BAY

The Administration has long supported the Chesapeake Bay Program and the Federal-state-local partnership associated with it because their importance in improving the overall health and viability of the Chesapeake Bay ecosystem. Accordingly, the fiscal year 1996 President's Budget requested \$20.7 million for the Chesapeake Bay Program Office (CBPO). While the Conference Report language instructs the Agency to fully fund this program, the Conference bill dramatically reduces other EPA programs that have direct affects on the Bay, such as:

*Enforcement and Compliance*

The EPA enforcement and compliance assurance program was reduced by 22 percent from the fiscal year 1996 President's Budget. This major budget reduction will undercut the number of Federal and State inspections conducted annually and may cause non-compliance to increase and water quality to be reduced within the Chesapeake Bay watershed.

*Clean Water*

The State and Tribal Grants (STAG) account was reduced by 24 percent from the fiscal year 1996 President's Budget. Depending on final Congressional action, state grants including Clean Water Act Section 106 water quality grants, nonpoint source grants, and wetlands grants could be reduced.

The Clean Water State Revolving Fund (CW-SRF) would be reduced by \$11.2 million in the State of Maryland alone.

As most of Maryland lies within the Chesapeake Bay watershed, the cumulative impact of the state grant and CW-SRF reductions would have significant impacts on the water quality and living resources of Maryland's Chesapeake Bay tributaries. Similar reductions would impact tributaries in the States of Virginia, Pennsylvania, Delaware, West Virginia, New York, and the District of Columbia.

*Wetlands*

The State of Maryland has approximately 444,500 acres or 27 percent of its original 1,650,000 wetlands to protect. The wetlands rider in the Conference report would impair the protection of wetlands from illegal filling in the Chesapeake Bay watershed.

Senator LAUTENBERG. That is all right, because I am interested in what happened to the striped bass who spawned there in the Chesapeake Bay, and they go up to New Jersey so we can fish for them.

Senator MIKULSKI. We are interested in New Jersey. We just want to make sure we are not overfishing up there.

Senator LAUTENBERG. Thank you.

Senator BOND. Senator Lautenberg.

#### IMPACT TO TECHNICAL WORK FORCE

Senator LAUTENBERG. Thank you very much, Mr. Chairman.

Ms. Browner, have you been able to do an assessment of what kind of damage you have seen thus far from the uncertainty, budget limitations and so forth? Are there jobs that are highly skilled jobs that require training, and I do not want to force feed you on this, but my impressions from the 1986 letdown were that it took a long time for the agency to recover, to get back on track.

Here, I am sure people within the agency not only have a right but frankly I think ought to look around to see what they have to do to take care of their families. When you enlist in the Army—I did that. I spent 3½ years—they usually get paid for the time you enlist for, and your job is secure from time to time.

Has there been, in your judgment, any damage of permanent or semipermanent types that will impact the agency's ability to function?

Ms. BROWNER. I honestly believe, and the statistics I shared with you earlier I think demonstrate, we are losing the wrong people. That is the effect.

Senator LAUTENBERG. You said the young people.

Ms. BROWNER. We are losing the young people. They are the backbone of the agency. They are the people who see the new ways of doing things, who want to change, who came here because they wanted to change. Now they do not want to continue.

One person said to me one day in the elevator that she was leaving. She said, you know, it is really hard to get up every day and read about how, because I work for the Federal Government, I am stupid, I am a bureaucrat, I do not know what I am doing. I actually thought I came here to be a public servant. I do not feel like I can be that any more. I will leave.

Senator LAUTENBERG. Demoralizing, to say the least.

Do you have any idea, in terms of numbers, of people that you lost in key jobs?

Ms. BROWNER. We can provide that for the committee, our break-out office by office, but let me just explain to you the effects of this.

For example, in our drinking water program we have 15 vacancies. This program encompasses the country's entire drinking water, groundwater Federal program, no small responsibility, and seeks to address cryptosporidium, a very important and dangerous

contaminant. We have 15 people gone from a program that is a total of 130.

[The information follows:]

#### KEY JOBS LOST AT EPA DURING THE SHUTDOWN

While the Agency has faced its most severe budget constraints during the continuing resolutions, significant austerity measures began much earlier, in the early summer of 1995. On July 11, 1995, the Administrator imposed an across-the-board hiring and promotion freeze. From this point to the present, EPA has experienced serious losses across occupations, experience level, and location. Over 980 staff have left, with the Agency standing some 1,691 positions below ceiling.

The field locations, where much of the contact with local governments and business takes place, have been hardest hit. Over 57 percent of the losses have occurred in the regional offices, particularly in the Boston, New York, and Chicago regions. It is particularly apparent in the Boston statistics that the losses have hit at the core of EPA's continuing efforts to maintain a state-of-the-art workforce. For most of those who left the Boston office, EPA was their first Federal position, and they had worked at the Agency an average of only 1.20 years.

In Headquarters organizations, the largest losses were experienced in the enforcement, research and development, air and radiation, and administration areas. Enforcement followed the age and experience pattern established in the regions, with its losses averaging just over 6 years experience and 34 years in age. Agencywide, the average years of Federal service of an employee who left EPA during this time-frame was 6.83, with 4.44 of that served at the Agency. This same group's average age was 34.21.

The chart below shows staff reductions by National Program from the levels authorized in 1995. The chart shows that EPA staffing has been reduced in almost all areas, with the deepest reductions in Enforcement (- 15 percent), Research (- 10 percent) and Air (- 10 percent). Overall, the Agency has experienced a 9 percent reduction from the 1995 authorized level.

#### ENVIRONMENTAL PROTECTION AGENCY FISCAL YEAR 1995 AUTHORIZED VERSUS CURRENT STAFFING BY NATIONAL PROGRAM OFFICE

Office	1995 authorized	Current staffing	FTE vacancies
Water .....	2,248	2,041	206
Air .....	2,020	1,815	205
Solid waste and emergency response .....	2,543	2,540	3
Pesticides and toxics .....	1,442	1,391	51
Enforcement and compliance .....	4,230	3,588	642
Research and development .....	2,083	1,875	209
Administration and resource management .....	2,404	2,201	203
Other offices .....	1,909	1,738	172
Total, EPA .....	18,879	17,188	1,691

Senator LAUTENBERG. What kind of skill levels might these be?

Ms. BROWNER. It is a range of skills. Technical people, scientists, professionals.

Senator MIKULSKI. Bachelors, Ph.D's?

Ms. BROWNER. EPA has a highly educated work force because of the work that we do and it is our professionals that we are losing. The large number of people that we are losing are, in fact, the professionals.

#### IMPACT TO SUPERFUND SITES

Senator LAUTENBERG. Can you tell us, what is the forecast for closures on Superfund sites that are either under programs right now, cleanup programs, or those that are being contemplated based

on, let us say, if the present level of funding were made relatively permanent?

Ms. BROWNER. We have impacts to all our programs. We will be more than happy to provide this for the committee. I showed you the list for air toxic pollutants, for industrial discharges to rivers and lakes.

In every instance, we are going through a prioritization based on risk, available resources, and public health threats, to decide which things will now fall off the list. Which things, despite the fact that they are issues we believe need to be addressed, are going to have to wait.

In the case of Superfund, we have done a similar analysis, and we have made a decision that it is important to complete those projects, those constructions that were underway, as quickly as possible. We have an investment. To delay is to lose some of that investment, so we would maintain our commitment in terms of completions in this fiscal year. Again, there are limited resources, and now we are going to take a bigger percentage of them.

Just to give you a couple of statistics, in terms of site assessments, which is a very important piece of the program, under the President's budget, we would have done almost 2,000 this year. Under the conference, it is approximately 800 that we will be able to do.

Under what is called remedial design starts, where we go out and begin the design work, under the President's budget, we would have done 76. Under the conference, it will be only 20.

[The information follows:]

#### SUPERFUND SITE CLOSURE FORECAST UNDER CURRENT FUNDING LEVELS

Under the fiscal year 1996 Conference level, the Agency anticipates completing construction at 65 sites. This would bring the Agency to a cumulative total of 501 through the end of fiscal year 1996. The Agency is committed to completing 65 constructions in the next several years in order to attain our goal of 650 constructions completed by 2000. However, the fiscal year 1995 rescission and the fiscal year 1996 Conference level will begin to impact that goal as new starts are delayed potentially as early as fiscal year 1997.

Senator LAUTENBERG. Is there a reserve fund available that will carry through this year's Superfund activities that, therefore, gives you some degree of comfort and ability to operate under the current fiscal year?

Ms. BROWNER. For the Superfund Program, the dollars have to be appropriated. While there is a tax that had been collected, it is not now being collected. As of January 1, it expired, and there are funds available in the trust fund. They are not accessible to us absent an appropriation. Congress has to give us access to the money.

Senator LAUTENBERG. So these are funds that have been collected that, like other trust funds, have to be appropriated, so what we are saying is that even though funds might be technically available, we cannot use them.

Ms. BROWNER. Precisely.

#### ENFORCEMENT IMPACTS

Senator LAUTENBERG. Inspections, enforcement and compliance, you said they were down some 90 percent in some of the areas. The funding for the agency was down only 10 percent in the first CR

and down 25 percent subsequently. Why is the impact so much greater?

Ms. BROWNER. The last two CR's have been at the House level. That is a 35-percent cut from what the President requested.

In the enforcement program, under the President's budget request we would have undertaken more than 9,000 inspections this year. Because of the shutdowns, because of the CR's, we have already missed several hundred. We do not think we will be able to make them up. We do not have the funds or the time. We are now estimating and hoping to be able to do about 7,000 inspections in the course of this year.

Senator LAUTENBERG. You did make reference to the targeted reductions in funding.

Ms. BROWNER. Under the last two CR's, just to remind you, the enforcement program did not have a targeted reduction. That was an across-the-board number that we then managed. In this CR, which the Senate, I understand, is perhaps now debating, there is an ambiguity that we would very much like to have direction on how to resolve. There is language that appears to tell us to take the directed cuts from the conference bill. The effect in the enforcement program would be very significant.

Senator LAUTENBERG. And last, do you have any analysis of the impact on contractors' employees? Have any of the larger contractors or smaller contractors included been forced to suspend their operations?

Ms. BROWNER. Yes; we are attempting to work with all of our contractors to understand exactly what the effects have been on their work force. What we have right now is largely anecdotal, but it is very troubling. We are aware of contractors who were not able to make up the difference. We were not there with our contract dollars. They were not flowing, and so the contractor had to lay off their employees.

Senator LAUTENBERG. Is it thusly a likely follow-on that the contractors that you may have to employ will either have to charge more, be able to charge more because there is less competition for the contracts, or be unable to carry out the responsibilities that you would employ them for?

Ms. BROWNER. I certainly think there could be long-term effects in terms of the contractors' willingness to come forward to bid on the projects. There is a risk now that had not existed previously.

Fred Hansen, my deputy, just showed me the first analysis we have been able to do. In terms of what the effect may be on the individual contractors, the private firms we deal with, more than 600 employees in those firms have been affected, and many of them have lost their jobs.

Senator LAUTENBERG. Thank you very much, Mr. Chairman.  
Thank you, Ms. Browner.

#### SUPERFUND RESPONSE

Senator BOND. Thank you, Senator Lautenberg.

Let me go back, Administrator Browner, to the discussions of Superfund. The conference agreement earmarked \$800 million for the Superfund response actions. That is primarily the actual clean-up work, which is the same level as fiscal year 1995.

Am I not clear, do I not understand from you that this level of spending would enable EPA to fund all ongoing sites and begin new cleanups with the highest risk to human health?

Ms. BROWNER. As I said, in keeping with the language, we would make sure that we could complete those sites where we had intended completion.

Senator BOND. That was the priority, you said, cleanup, and there is enough money to continue all those existing cleanup operations.

Ms. BROWNER. In terms of the 65 construction completions, we have made that a priority within these levels, but then it does have a ripple effect.

Other things that we had planned to do will not be possible in terms of our new starts, going out actually on the ground in communities, ready to do the last phase, to actually do the cleanup part. I might ask Mr. Laws, who is the head of our Superfund Program as well as our solid waste and emergency response program, to speak specifically to that.

This has been a very difficult set of decisions that we have sought to make within this program because there has been an additional level of uncertainty. As you know, we did not initially have to shut the program down, but then we did because we hit our administrative caps. We tried to make the right set of decisions. We think we should be at as many sites as possible, but if he might just briefly explain how we prioritized—

Senator BOND. We would like to hear that, and we will get to that later. We do want to have that for the record, but we did ask, I think, for new starts that you prioritize the Superfund sites where there are risks to human health either now or in the future from current land use.

And if you will recall, the GAO report which studied the ongoing Superfund actions, said about, I think, 32 percent of the sites that EPA was working on hold threats to human health now or in the future under current land use and that is, if you do not change an industrial site into a day care center, and we had urged that going forward that while many of these other sites are very important to be cleaned up, that you prioritize those with human health risks.

When I proposed 1 month ago to add \$100 million to the Superfund, that would have brought the total up to \$1.26 billion. This would have allowed the cleanup spending to surpass the fiscal year 1995 levels, would it not?

Ms. BROWNER. The fiscal year 1995 level for Superfund I believe was \$1.3 billion.

Senator BOND. Response actions, I am talking about.

Ms. BROWNER. I am sorry. I thought you were talking about the total dollars available.

Senator BOND. But that would have enabled—

Ms. BROWNER. Response actions in fiscal year 1995 is 800. I apologize. The confusion, and obviously this has been a discussion between the staffs, has to do with how the rescission was taken.

Senator BOND. Let me ask one question. Last year, when Congress rescinded \$100 million from Superfund, the agency notified Congress that scores of sites would not get cleaned up and said there would be a \$230 million shortfall, but as I understand it,

EPA was not able to spend all of its fiscal year 1995 dollars and actually carried over funds into the Superfund budget in 1996, allowing you to sustain operations until January 2. How much carry-over did you have, and why?

Ms. BROWNER. Let me ask Fred Hansen to speak to the carry-over.

Mr. HANSEN. Mr. Chairman, again for the record, I am Fred Hansen, the Deputy Administrator.

The carryover, as I understand it, was that \$88 million was from the fiscal year 1995 funds not obligated prior to that fiscal year, and then \$22 million in excess of our actual cost recovery collection target for 1995. That is pre-1995, \$88 million, during 1995, \$22 million, for a total of \$110 million for that carryover.

#### EPM WORK FORCE

Senator BOND. Thank you.

You mentioned the potential risks. In the analysis the conference report said that a furlough of 18 to 19 days, or a RIF of 3,750 FTE's would be required. How much in additional spending would you need in EPM to prevent RIF's and furloughs?

Ms. BROWNER. Not to bring back the 1,500 who are now gone, just to stay where we are, is \$52 million.

Senator BOND. Now, we offered in the December compromise, we wanted to bring that up to \$40 million, so that would have brought us up within \$12 million. Would you say that is your highest priority, preventing furloughs now?

In other words—we are going to have to rank these at some point. Would you say the full \$52 million was your absolute top priority? Something has got to be the top priority.

Ms. BROWNER. Mr. Chairman, my top priority is the mission of the agency. I have to be honest with you.

Senator MIKULSKI. Let me ask Administrator Browner, it is not where we want to be, but in this environment, what would be the closest we could come, do you believe, to your top priority for achieving your mission?

Is it to prevent furloughs, to ensure the continuity for the contractors?

Ms. BROWNER. One of the most important tools I have in the job I do for the American people are my colleagues at the agency. The work they do is very important.

Equally important is the work that our contractors do. We go hand in hand, and that is why it is not as simple as saying it is this versus that. I have to look across all of the tools.

Senator MIKULSKI. Would it be those two?

Senator BOND. So what are the numbers you want, \$52 million to avoid furloughs? What do you need?

Ms. BROWNER. What about Superfund, water, drinking water, clean water for the States?

Senator BOND. I am asking you because we are squeezed within a limit, and we are trying to find additional dollars, and we all share the big, broad mission, but we are trying to find the dollars which are the top priority dollars.

You said \$52 million for EPM.

Ms. BROWNER. I said that is what it would take to avoid a RIF or a furlough. There are additional funds if we are going to be able to utilize our contractors to assist us in the work we think is important.

Let me give you five categories. Maybe that is the easiest way to do it in terms of where we believe resources are needed if we are to fulfill our mission.

Senator MIKULSKI. Not only where, but what.

Ms. BROWNER. Enforcement and compliance. There is a \$43 million targeted cut in our enforcement and compliance program. That is a combination of inspections, enforcement actions taken and small business compliance assistance. That is the program that is targeted, our Office of Enforcement and Compliance Assurance.

Public health and environmental standards. Funding for the work we do on the air toxic particulate matter, the air we breathe, cryptosporidium in the water we drink. The dollar amount is a combination of salaries for the EPA employees and contracts. The dollar amount that we believe would allow us to do the job is \$105 million in that account. That is a combination of contractors and personnel. We need both.

Senator MIKULSKI. Could I get a clarification? You say you were cut \$43 million. Now you are saying \$105 million over the \$43 million?

Ms. BROWNER. \$43 million is the targeted cut in our enforcement program. In your account structure, it is true you carry enforcement as part of the EPM account.

Senator MIKULSKI. Let us not get into that.

Ms. BROWNER. It is \$43 million in enforcement, \$105 million in EPM. That goes to your question, Senator Mikulski, of the contractors and the work force.

Toxic waste cleanup, the Superfund program, an additional \$150 million. State and local government assistance and drinking water. While we do appreciate, Mr. Chairman, your leadership and commitment on the drinking water issue, we would suggest that should be raised to the President's request. Clean water funding has been cut and it needs to be restored.

Finally, climate change and environmental technology.

#### DRINKING WATER SRF

Senator BOND. And the total for that comes out to \$966 million, so if it is \$966 million or nothing, much as we want to get it, we are likely to wind up with nothing, and I would hope that we could work with you and find out where, if we could only get a portion of it, that should go.

Let me just ask to clarify one area. On the State revolving fund, the administration requested an additional \$225 million for the drinking water State revolving fund and \$240 million for clean water.

The Federal assistance for construction of water treatment plants is very important, but I am very much concerned about some statements I have heard you all make in a press release EPA sent out last month just before the veto, and again in today's testimony.

You say we have cut State drinking water loan funds by 45 percent, when, in fact, there were no funds, zip, nada, zero, provided to the States in the authorization because of a lack of authorization in fiscal year 1995.

There is \$500 million we put in. Nothing went last year. We are hoping that we get \$500 million this year. That is what the President asked for.

Ms. BROWNER. Again, we appreciate the leadership you provided, Mr. Chairman, on that very important issue. We recognize that the House was at zero and that because of your leadership one-half was put there. You had hoped for more and we want to work with you to get more.

Senator BOND. Well, even if we can get the program authorized, and with another hat on in EPW we work to get it authorized, if we got it authorized in March, could you obligate \$500 million for the program before the end of this year?

Ms. BROWNER. As I understand the language, if we were unable because of the authorization problems to obligate it, the funds could move over into the clean water program. The administration's request in terms of clean water is not bringing us back up to where we believe we should be. So that we can see those State revolving funds revolve at a \$2 billion level on an annual basis. There is a tremendous need which these dollars help to address but in no way resolve, and so that flexibility, which I think we have all agreed is important, would allow us to move the money.

Senator BOND. Well, we want to keep the flexibility, and we would like to get started on the drinking water program. If we cannot, the trigger we put in in the conference report would put that money to use, and we want to get that money used one way or the other.

Senator Mikulski.

Senator MIKULSKI. I absolutely agree. You know, we went \$800 million over the House; then, when we looked, we had an escape hatch amendment that really was due to the creative work of Senator Bond and his staff, and I think that was an additional \$240 million. Am I correct in that?

Senator BOND. \$225 million, I think.

Senator MIKULSKI. I actually—Madam Administrator, I think, unless there is some unusual breakthrough in this budget amendment, which I doubt, I think that is going to be pretty much the best that could come out of this committee.

Ms. BROWNER. For the drinking water program?

Senator BOND. For the whole deal.

Senator MIKULSKI. The whole deal. We have HUD, we have FEMA, we have National Service. The President has made EPA and National Service his top priorities in terms of the concerns around the vetoing of the bill, which I support, but—we are trying to do the CR, but I think we have to look at the realistic approach, and we are also dealing with not only what the White House would like, but what the House is insisting upon, and quite frankly I am going to be trying to save National Service as well as sustain our commitment to the environment and to the veterans.

Ms. BROWNER. We are certainly very conscious and cognizant of the fact that, as I think Senator Mikulski said, you were dealt a

bad hand. We do appreciate, Mr. Chairman, your willingness to go far beyond what the House was willing to do. I know you understand there are unfortunately consequences that are not insignificant even at the conference level.

Our goal is to work with you to see that we are able to do the very best job to honor our commitment, and I know that is your goal.

#### RESPONSE TO NAPA REPORT

Senator BOND. Well, we do have to go for a vote. The NAPA report, you had a 3-week furlough. It was due about 1 month ago. When is that due, or when will that be ready?

Mr. HANSEN. Mr. Chairman, as quickly as we can get it to you. It is very accurate that the shutdown has slowed that very part of it. I do not have the exact date, but it will be a couple of weeks maximum time.

Senator BOND. Would you support further involvement working with NAPA in examining how the implementation program is working?

Ms. BROWNER. I certainly think NAPA has been very, very helpful. We have enjoyed the working relationship with them. We would like to discuss with NAPA and with you what is the appropriate organization and vehicle for overseeing implementation.

Senator BOND. Just a final thought. If we do get some kind of appropriations bill through, I hope we do not have any more CR's. I hope whatever we do the next time is for the rest of the year.

As I indicated this morning, there will not be another measure like this current CR that was formulated without any involvement of this committee dealing with VA, HUD, and EPA. There will not be one, and we look forward to working with you. To the extent that we find additional dollars, your ability to prioritize within that \$966 million will enable you to have some input. Otherwise, we will make your choices for you.

Thank you, Madam Administrator. We will recess the hearing until we can go and vote, and we will hear other witnesses when we return.

Thank you.

[A brief recess was taken.]

## NONDEPARTMENTAL WITNESSES

### STATEMENT OF ROBERTA HALEY SAVAGE, EXECUTIVE DIRECTOR, ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL ADMINISTRATORS

Senator BOND. The hearing will reconvene. My apologies for the delay. We wanted to find out if we were going to have additional votes immediately. There will not be. Senator Mikulski had other commitments, so she is not able to be here. I see we have refined the audience down to the real aficionados and the real experts, and it is now my pleasure to turn to a panel of outside witnesses who will share their concerns.

A special thanks to all of you. We particularly appreciate your being willing to take up a Friday afternoon and to come on such short notice.

We have Ms. Roberta Savage, executive director of the Association of State and Interstate Water Pollution Control Administrators, who will focus on the issue of funding for water quality programs, Mr. William Birkhofer, vice president of corporate development at Sverdrup Corp. and a member of the Hazardous Waste Action Coalition. We will discuss their concerns about Superfund.

And finally, we will hear from the State of Delaware's Secretary of Natural Resources and Environmental Control, Mr. Christophe Tulou, who is a member of the Environmental Council of the States.

Ms. Savage, would you begin?

### STATEMENT OF ROBERTA HALEY SAVAGE

Ms. SAVAGE. Thank you, Mr. Chairman. As you indicated, I am Roberta Savage. I am the executive director of the Association of State Water Administrators.

Our association has since the early 1950's represented the views of State directors who on a daily basis manage and protect the waters of the United States. Their job is to work for the States with the Governors, for the Governors, working with State legislatures to protect the health and welfare of the citizens of their State, and our national association is here to speak on the technical issues, not the political issues, that you and the other members of your committee, as well as the Nation, are struggling to deal with at this point.

What we would like to do is talk to you just a little bit about what the implications of the current situation are for the State water programs and first, I would like to tell you how much I appreciate the work you have done in making every effort to hold the State management programs harmless.

The language that you made sure was in the conference report saying that the States would be held harmless, that their budgets would be held harmless, was very, very important to our organiza-

tion as well as to my sister and brother organizations that represent other media groups.

We also want to thank you for the language that you incorporated in the bill that said, and recognizing that the money for the drinking water SRF did come from the clean water program, it was reduced, and if that money is not made available through the authorized drinking water program, that the moneys will return to the clean water program. We very much appreciate that.

We have seen the moneys taken from this subcommittee and taken from the environmental protection programs through rescissions because that provision was not there, so we very much appreciate the work in that area.

I would also, even though Senator Mikulski is not here, I would like to express our appreciation to her. When she was chairing your committee, she convened what they called the 602(b) coalition to fight, all of us, all of the interests under the jurisdiction of your subcommittee, for more money for your subcommittee, and I think we were somewhat successful, and maybe we will have to reconvene that group.

Senator BOND. Could you give us a list of the names and addresses of that group? We are going to have to do a better job next time around.

Ms. SAVAGE. I was working at the Izaak Walton League and represented the environmental issues during that coalition, and it was a good effort. We will see if we cannot do it one more time.

Senator BOND. Sounds good to me.

Ms. SAVAGE. As you know—and every witness that comes before you, Mr. Chairman, tells you we need more money, and I could certainly go on and on, and in my testimony I list what the States believe they need to have to successfully implement the clean water program, but we also recognize that this country is facing very, very serious budget problems and that we all have to take our fair share.

As our charts will indicate however, you will see that the clean water program, particularly our SRF, has taken a big hit in just the last couple of years.

We started at a \$5 billion program. We were cut in 1981 to \$2.4 billion, and now we are just barely scraping at the \$1 billion level, and then you add, and what I would really like to focus on is less the dollar amount—I mean, we could argue over the President's budget, over the CR, over the conference report, and everyone has their opinion.

Obviously, we would like as much money as you can possibly provide, but what we need more than anything is the certainty and the specificity to know how to proceed. This is particularly important as we devolve responsibilities to the State programs. You are asking more and more of the State managers, and at the same time we are seeing less and less money going to them. That is what this whole unfunded mandates issue is about that you hear from the Governors and the cities. More and more work is devolving, less and less money.

We heard the Administrator talk a lot today about contractors, we heard her talk about EPA employees, but we did not hear as

much as I would like to hear about what the State and local governments are being asked to do under the clean water programs.

Balanced budgets, fair shares, we are all willing to do what we need to do for the betterment of this country, but let me talk a little bit about what the uncertainty does, particularly in the State revolving loan fund.

The outreach of the revolving loan fund is not just State dollars. It does go to contractors, which we have heard a lot about today. It also goes to the bond market. It influences what is going on in the bond market. It influences the rating that a State might have, the level of confidence that the bond market has in a State.

It influences the rate of leveraging, and what a State can do with its money, and whether they can bond. It also affects the confidence that the American people have in the word of State government. If they commit to build a project, they want to know that money is there.

If they go forward and they do the work and they enlist the contractor, and they tell all the citizens we are ready to go and we are going to have clean water or drinking water facility, they need to have that assurance.

So as Senator Mikulski indicated, CR is a miserable way to have to—all of us recognize it is not the best way to do business. It is not good for planning, it is not good for management, and it certainly is not good for the long-term health and welfare of our organizations, so what we would like to see is some stability, some predictability in our programs to know where we are going.

If the levels go down—the 1995 level is what most of the States are working on at this point. We are not advocating it, but reality is what reality is, but specificity and the integrity of a long-term commitment is what is so very, very critical to our programs.

I see that my light—there are a number of things that I want to say, but I would rather just talk about the program through questions rather than take your time. You have got my testimony. I would like to share with you—it is the first time it has been made available—our America's Clean Water, the status of the clean water program from 1972 to 1992.

The States have assessed the quality of our waters and what that means, what we have done with the dollars that this Congress and the American people have provided to our clean water programs over the last 20 years.

We think it is a tremendous success story, and we are pleased to announce it and share it with you here for the first time.

Thank you very much.

#### PREPARED STATEMENT

Also—oh, I would like to share with you, Mr. Chairman, a survey that our State members did—of course, Missouri assisted—on what they need to run their programs, what is available under the CR, and what their long-term expectations for their programs are.

Thank you, sir.

Senator BOND. We will make all that part of the record. I am sure the other members of the committee will want to see that. I thank you very much for making that available.

[The statement follows:]

PREPARED STATEMENT FROM ROBERTA HALEY SAVAGE, EXECUTIVE DIRECTOR, ASSOCIATION OF STATE AND INTERSTATE WATER POLLUTION CONTROL ADMINISTRATORS

Mr. Chairman and Members for the Committee, the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), which represents the State officials who, on a daily basis, manage the nation's water quality program, appreciates this opportunity to testify before the Subcommittee on VA/HUD/IA Appropriations regarding the status of FY96 funding and the impact on State Clean Water Programs.

Let me state at the outset that the Association recognizes the delicate nature of the budget negotiations that are taking place between Congress and the President of the United States. We are aware of the sensitivities of the issues we will be discussing here today. And, the Association wants to be, clear up front, that this statement is intended to respond to your kind invitation to share the State water regulators' insights from a technical and programmatic perspective. In no way does this presentation represent a position on the budget negotiations between the President and Congress.

Mr. Chairman, I have had the opportunity to work with your Committee for nearly two decades. I want to complement you and your fine staff for your past efforts to consider and incorporate the positions of our organization into your deliberations. As the Committee, in this hearing, takes a broad look at the issues, let me reiterate for the record what you all know and well appreciate:

1. National polls consistently indicate that the American public places a high priority on clean water and environmental protection,
2. The States are on the environmental front lines and responsible for the daily implementation of programs under the Clean Water Act,
3. In the administration of these programs, States depend upon USEPA to provide:
  - Basic program direction (i.e., up-to-date effluent guidelines, guidance for water quality standards criteria, etc.),
  - Technical and legal support,
  - Credible science provided in a timely manner,
  - Timely and consistent pass-through of State program grant funds, and
  - Enforcement back-up in non-delegated States.
4. Working together, it is essential States and USEPA modernize program management, reform/streamline regulations, maximize environmental results and encourage comprehensive approaches. Such activities are underway and should continue to be a high priority, and
5. The Clean Water Act is fundamentally sound, but refinements in the form of a reauthorization are needed to update the program and minimize impediments, including the need for:
  - *Federal funding commensurate with Federal mandates*, including adequate funding for State management and continued Federal capitalization of the State Revolving Loan Fund (SRF).
  - *Expanded State flexibility and targeted reforms* to operate more efficiently, effectively and cooperatively.
  - *Expanded capacity and authority to promote effective nonpoint source programs in States.*

The bottom line is that States have become *the principal safety net* for maintaining and enforcing Clean Water Act programs. This is even more true because of the current funding situation's adverse impact on USEPA personnel, contracts and other factors (e.g. the decline in their enforcement actions by up to 50%). We urge the Committee to take that into consideration in making budget decisions.

FY 1996 CONFERENCE AGREEMENT

We are deeply appreciative of the Congressional support for sustaining FY 1995 funding levels for State programs (including Section 106 State management, 319 for nonpoint sources, etc.) However, as the chart (Attachment A) indicates, the majority of recent environmental cuts have essentially been made in State and local program categories (municipal financing under the SRF, Superfund and underground tank cleanup).

In taking future actions, we would ask that the Committee be mindful that the levels in HR2099 (the Congressional Conference Agreement of November 1995) are significantly below what the Association has identified as critical funds necessary to effectively operate the Clean Water Program at a "Federal fair share" of a basic level of services. The States have calculated that the programs need annually from the Federal government: \$150 Million for Section 106 State management, \$500 Million - \$1 Billion for the 319 nonpoint source program and no less than \$2 Billion for the SRF.

As you are well aware, Mr. Chairman, the Congressional appropriation is on hold and the 3rd continuing resolution (CR) expires today. Let me express at this juncture the States' deep concerns about the continuing lack of stability and predictability caused by the current fiscal situations. The Association and its membership are enormously grateful that every effort has been made to hold State programs harmless. However, States are not in a position to assume that funding will continue for the remainder of the year. Consequently, the impacts on States are, for the most part, anticipatory.

**The big problem for States is uncertainty relative to any level of long term Federal funding.** Of equal importance, is the uncertainty as to whether State programs will be reimbursed for forward funding Federally requested activities. It must be recognized that many States are facing water programs reductions in their State appropriations as well. The longer the uncertainty at the national level, the worse the situation will become.

At this juncture, we know:

- \* Some States have put a freeze on all Federally funded positions.
- \* Others have downsized:
  - .. Through layoffs
  - .. Not filling vacant positions.
  - .. Moving Clean Water Positions to other programs

In some States, this means a 15%- 38% staff reduction.

In some States, activities (i.e. compliance inspections for mining or compliance monitoring) have been halted.

Core functions (protection of public health and safety and permitting) are being jeopardized, including enforcement, local technical assistance and newer programs (e.g. watershed protection/local basin cleanup). Delays in permitting new and expanded facilities have a direct effect on economic development. In the words of one State program administrator "the program is paralyzed, with the reductions we have had to make, only 20% of the staff have experience. The NPDES program is a house of cards - the single loss of a key card will bring the whole thing down."

Mr. Chairman, we very much appreciate that the State program funding has been treated kindly to date and we appreciate your willingness to assure continued State resources. **But if the national budget decisions change, are postponed and/or cuts are made at a later date, the impact will likely be severe -- a 10% Federal FY96 cut in the 4th quarter, could translate into a 40% cut, in total, because it will all need to come out at the last moment.**

On the positive side, we at ASIWPCA have been working closely with USEPA's Office of Water to implement the various CRs and have been meeting by conference call bi-weekly with the Assistant Administrator to keep the States abreast of fiscal issues. These calls have been of enormous help in fostering communication and identifying and resolving problems.

## FUTURE CONGRESSIONAL ACTION

While the Association appreciates funding being provided (\$40.85 Million for State management and \$338.5 Million for the SRF), a Congressionally passed appropriation is much preferred over the CR mode of operation. Clearly, funding at the FY1995 level would promote State program stability.

(\$ Millions)	FY 1995 Appropriation	FY 1996 Budget	President's Conference Report HR 2099	Continuing Resolutions
<b>I. MUNICIPAL FINANCING</b>				
Title VI SRF	1235.2	1600.0	1125.0 <sup>1/</sup>	338.5
Special Grant Projects	781.8	265.0	265.0	-0-
Drinking Water SRF	225.0 <sup>2/</sup>	500.0	275.0 <sup>2/</sup>	-0-
<b>TOTAL</b>	<b>2,242.0</b>	<b>2,365.0</b>	<b>1,665.0</b>	<b>338.5</b>
<b>II. STATE MANAGEMENT.</b>				
POTW SRF Construction: 603(d)	49.4	64.0	45.0	13.5
Traditional Grants and Performance Partnerships	See below	See below	658.0	See below
Water Quality Management				
• Section 106	81.7	80.2		40.85
• Planning: 604(b)	12.4	16.0	11.25	3.4
• Nonpoint Sources Sec. 319	100.0	100.0	3/-	50.0
• Clean Lakes	3.1	0.0	3/-	1.55
• 104(b) State Coop. Agreements.	22.5	22.5	3/-	11.25
• Wetlands	15.0	15.0	3/-	7.5

- 1/ \$50 Million is setaside for impoverished communities to implement §102 of H.R. 961 (§104 grants) – States can blend these “grant” funds with SRF funds to make projects affordable in communities of less than 3,000 population with no existing collection systems. Funds a State cannot use revert to their general SRF.
- 2/ \$1.074 Billion of FY94/95 funds originally reserved for a Drinking Water SRF were rescinded (leaving \$225M which is subject to the same terms as footnote 4 below). The FY96 funds are setaside for authorization of a drinking water SRF. If that does not occur by 6/1/1996, they revert to the Title VI SRF. TOTAL: \$500 Million
- 3/ These funds are provided under the Traditional Grants and Performance Partnerships category at essentially FY1995 levels.

If passage of an appropriation for HUD/IA programs is not possible for FY96, the Association urges the Committee to consider some vehicle to provide a predictable funding level for State management under section 106, nonpoint sources under Section 319 and the SRF under Title VI. As previously indicated, the option (CR after CR) as outlined below, is causing many States tremendous difficulties that are likely to *worsen significantly* over time.

## IMPACT OF THE CONTINUING RESOLUTIONS

- 1. State/Federal Partnership:** To assure the effectiveness of environmental programs, the State/Federal partnership must be strong. However, uncertainty is causing many States to cut back on their commitments. For example, guidance, regulation and program development and implementation efforts have been severely curtailed because of the very limited grant and contract funds in the CRs. We believe the State involvement in these efforts, all but eliminated under the CR and shutdown process, is absolutely essential to the national integrity of environmental protection. Over the long term this could adversely impact the State/USEPA partnership and indeed the effectiveness of the national program. We are further concerned that the morale of USEPA and State management staff has significantly deteriorated.

As delegated States anticipate the potential funding problems in the remainder of the year, many are generally cutting back on commitments, obligations and additional responsibility.

A particularly troubling situation has been raised in States that are in the process of assuming management of the NPDES permitting and enforcement responsibility. It is unclear how undelegated States will be able to take over these functions if there is less 106 funding.

2. **State Water Program Management:** Under the current CR, there is enough funds to carry States through March 1996, with the 50% of FY95 levels that is being made available (e.g. \$40.85 Million for Section 106). However, there are State concerns about the Federal government's ability to sustain that funding through the remainder of the year, as discussed above.

- ♦ **SRF:** The Clean Water State Revolving Loan Funds was funded at only 11% of last year's levels. These dollars were made available in the last hours of the first CR. Just this past Wednesday, we were told that an additional \$238.5 is now available in the third CR. SRF funds are being allotted by formula to the 50 States. And, off the top, before allocating any funds to the SRF, States must reserve, *in full*, the expected FY96 604(b) planning setaside (a minimum of \$100,000 per State).
- ♦ **Project Funding:** The amount of funding available to States for projects under the CR1 and CR3 varies from \$1.58 Million to \$37.3 Million (see Attachment B for State by State data). This pales in comparison to the need (e.g. 5 States each have over \$200 Million in project demands for the first half of FY96 and an ASIWPCA survey indicates in Attachment C nationally that number is over \$2.5 Billion). Recognizing the potential for a major funding crisis under the CR process, some States "bank rolled" SRF funds to secure enough future allotments to fund critical projects. States are concerned that this is being interpreted, by some in the Federal establishment, to mean that "States do not need the funds". This is a major misinterpretation.

Here are the facts ... the uncertainty slows down the program. Communities need to *know for certain* that a State will commit to their project -- "*maybe yes, maybe no*" is not good enough -- to move forward they must count on and receive those dollars in a timely manner.

In States, SRF funding is not just an issue of wastewater treatment plant construction. It is also an issue of:

- Public health and drinking water protection
- Nonpoint source control
- Ground water protection
- Nutrient removal for lakes and coastal waters
- Fish and wildlife protection
- Economic development and revitalization -- it is important to keep in mind that:
  - .. It is true that the Federal and State governments have expended billions on wastewater treatment, yet we need only look to the Potomac and Baltimore water fronts to recognize the enormous economic come back that has resulted.
  - .. Meeting our clean water standards is good business. Clean rivers and lakes promote growth and development, along with a healthy and productive society.

♦ **Potential Impact of Furlough Prohibition:** Because Congress has prohibited furloughs, the USEPA, as we understand it, is being forced to "borrow" from future appropriations. This will undoubtedly limit their ability in future funding vehicles to support State Clean Water Act implementation. When the IOU "comes due" (and if staff reductions become necessary), the impact on States could be *severe*. The impact will come from the high costs of any personnel reductions needed and the ever more limited pool of funds available for FTEs, grants, contracts and the SRF. Because of this threat, States are becoming quite conservative about what activities they are willing to undertake.

♦ **Operational Problems:** Because States deal with a plethora of constituencies and have a multitude of responsibilities and accountabilities to, for example, the governor, the State legislature, the communities, the public, etc., it is difficult for State environmental programs to operate efficiently and effectively under short term CRs. While many were hopeful that Federal funding problems were temporary, that has clearly not been the case. Many States are still preparing and submitting annual work plans and SRF grant agreements for USEPA approval with the expectation of periodic and only partial funding. The SRF process, for example, has been slowed by State public participation requirements and other factors discussed above:

- **Planning:** It is very difficult, as discussed above, for States to plan, project the long term funding outlook and develop realistic program budgets with a ever moving fiscal target.
- **Inefficiencies, Uncertainty and Confusion:** Inherent in short term CRs, are inefficiencies, communication problems, uncertainty and confusion.

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- By the time States learned the details of what was available under the first, second and third CR, they (the CRs) had virtually expired. The decision making process within the Administration (at OMB and USEPA) has difficulty keeping pace with the short time periods. And, once the decisions are finally made, it takes time to communicate this information to USEPA headquarters program staff, USEPA Regions and the States. Questions such as -- Is there SRF funding? Will the formula in the Clean Water Act be used? Does what was provided in the 1st CR carry forward? -- are difficult if not impossible to address in any reasonable or appropriate timeframe.
- There was much confusion and inconsistency in how the CRs were interpreted between and among USEPA Regions and between individual environmental media programs.

For example, 1) one region thought State program management funds were not available for some media programs, 2) policy on expediting the process for SRF applications was not consistently understood and 3) one region thought State grants funds should be used for only certain purposes, while others did not believe there were restrictions. Again, communication between ASIWPCA and the USEPA Office of Water has been very good and the headquarters personnel have worked to resolve these regionally specific problems, but all of this takes time.

- **Resource Limitations:** Due to the very limited number of "essential" staff in place during the shutdowns, work at USEPA has become seriously backlogged. At the national level, ASIWPCA worked with the press and constituent groups (e.g. governors' offices and national associations) to help answer funding questions, as the core USEPA staff worked to address identified problems. For example:
  - With only a skeleton crew, it was a *Herculean task* for USEPA to process letters of credit (LOC) for previously obligated funds. The processing of FY96 grant applications, alone, has slowed down significantly.
  - Snags understandably occurred. Papers got lost, mail was unopened, and most Regions were overwhelmed by the tremendous work load.
- **Program Reforms:** Work with USEPA on program reforms has been significantly delayed or at times drastically diminished. Program reforms States most need that are being affected adversely include:
  - *Stormwater* program streamlining.
  - *SRF* streamlining
  - *Other wet weather issues* such as better water quality standards criteria and national policy for sanitary sewer overflows -- intended to improve science and make the program more reasonable and affordable.
  - *Implementation of the revised 319 nonpoint source policy* that is geared to building long term capacity at the State and local level.
  - *Implementation of the watershed approach* to program management (which is needed so that States can be more efficient and effective). In some States this is halted.

- ♦ **Reauthorization:** During the "shutdowns", dialogue with States on reauthorization (e.g. on a workable approach to incorporating risk and cost/benefit factors) were halted entirely.
- ♦ **Compliance:** The effectiveness of the Clean Water Act depends significantly on the willingness of industry, municipalities and nonpoint sources to support the goals. The uncertainty and limited ability to fund the SRF and well as the diminished ability of States (anticipating the unknown) to enforce and monitor tears at that delicate tapestry. ASIWPCA members are concerned that if SRF funds are not available in a long term vehicle to meet compliance needs -- the State/Local/Federal partnership will begin to unravel.

### Summary

The CR mode of operation is taking its toll on the national water programs. In this stressful situation, the States and USEPA have attempted to work cooperatively together to administer the program and communicate with one another.

The Association urges the Committee to enact a predictable level of funding at least consistent with FY 1995 levels. In addition, ASIWPCA would urge the Committee to:

1. **Maintain the Title VI Clean Water SRF as the vehicle for infrastructure financing at a \$2 Billion level, with no special grant projects.** Further, we thank the Committee for making accommodation in the Conference Committee funding bill to return SRF program funds to the Clean Water Program, if the Drinking Water SRF is not authorized. We urge the Congress to include this provision in future FY96 funding vehicles.
2. **Place highest priority on preserving the funding for States to carry out existing statutory responsibilities -- sustaining State management grants (Section 106, etc. at least to FY 1995 levels).**
3. **Support the Section 319 nonpoint source program at a \$100 Million level,** due to the significant percentage of the nation's remaining water problems from these sources. Section 319 should be directly and independently funded, rather than siphoned off of and depleting the SRF.

The Association is mindful of the seriousness and complexity of the decisions before the Congress. We appreciate your solicitation of the perspectives of the State officials responsible for the administration of the national Clean Water Program.

Thank you for your consideration of ASIWPCA's recommendations.

### ATTACHMENT B

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 23 1996

SUBJECT: FY 96 Continuing Resolution #3 SRF Funds

FROM: Rich Kuhlman, SRF Branch Chief

TO: Regional SRF Coordinators

Attached is a chart that shows the allocation of an additional \$238.5M in funding for the SRF program in FY96. These funds are in addition to the \$100M we received Oct. 4, 1995. As the FY 96 funding for the SRF program continues to unfold, we will keep you informed.

Please notify your States of their respective allocation amounts. We will soon publish a notice of availability in the Federal Register for these funds. However, it is not necessary to delay the award of these funds until the notice of availability is published.

Although Congress has incrementally funded the SRF program this year, we are considering each successive CR as part of one allocation for FY96 (we are not treating each CR as a separate allocation). The importance of this interpretation is how the 604(b)(4) set aside is calculated. States get 1% or \$100,000, which ever is greater, of the total amount of funds allocated at the time of the initial FY96 grant award or any subsequent grant amendment. States will not get 1% or \$100,000, which ever is greater, of each CR allocation. The second column from the left in the attached chart identifies each State's 604(b)(4) amount as 1% or \$100,000, which ever is greater, based on the \$338.5M allocated to the SRF program so far during FY96.

Please continue to work with your States to award these funds as appropriate. If a State has already received an award for their portion of the first \$100M, these additional funds can be made available by processing a grant amendment.

If additional information is necessary, please call me on (202) 260-7360 or your appropriate SRF headquarters contact.

#### ATTACHMENT C

11/20/95

#### FISCAL YEAR 1996 APPROPRIATION (\$ Millions)

	FY 1995 Appropriation	President's FY 1996 Budget	House/Senate Conference Report	Change from FY95 Level
<b>I. MUNICIPAL FINANCING</b>				
Title VI SRF	1235.2	1600.0	1125.0 <sup>v</sup>	-9%
Special Grant Projects	781.8	265.0	265.0 <sup>v</sup>	-66%
Drinking Water SRF	225.0 <sup>v</sup>	500.0	275.0 <sup>v</sup>	+22%
<b>TOTAL</b>	<b>2,242.0</b>	<b>2,365.0</b>	<b>1,665.0</b>	<b>-26%</b>
<b>II. STATE MANAGEMENT.</b>				
POTW SRF Construction: 603(d)	49.4	64.0	45.0	-9%
Traditional Grants and Performance Partnerships <sup>x</sup>	See below	See below	658.0	-0.5%
Water Quality Management				
* Section 106	81.7	80.2		*
* Planning: 604(b)	12.4	16.0	11.25	-9%
* Nonpoint Sources Sec. 319	100.0	100.0		*
* Clean Lakes	3.1	0.0		*
* 104(b) State Coop. Agreements.	22.5	22.5		*
* Wetlands	15.0	15.0		*
Air	181.1	175.1		*
Public Water Supply	70.0 <sup>v</sup>	90.0		*
UIC	10.0	10.4		*
Hazardous Waste	97.0	98.3		*
Underground Tanks	9.7	10.4		*
Miscellaneous	68.4	71.5		*
<b>IV. SUPERFUND</b>	<b>1415.9</b>	<b>1548.9</b>	<b>1163.4</b>	<b>-18%</b>
Underground Tank Cleanup	69.3	76.6	45.8	-34%
<b>V. TOTAL: USEPA Internal Operations (i.e. not covered by I-IV)</b>	<b>2970.3</b>	<b>3361.7</b>	<b>2853.8</b>	<b>-4%</b>

\* For change from FY95 see Traditional Grants and Performance Partnerships category above

- / \$50 Million is setaside for impoverished communities to implement §102 of H.R. 961 (\$104 grants) – States should be able to blend these “grant” funds with SRF funds to make projects affordable in communities of less than 3,000 population with no existing collection systems. Funds a State cannot use revert to their general SRF.
- / This includes \$100 Million for Mexican border projects, \$50 M for Texas colonias, \$15 M for native Alaskan villages, \$2.5 M for Boston, \$10 M for New Orleans, \$3 M for Fall River MA, \$1.5 M for New Bedford MA, \$5 M for West Central Florida (water source project), \$1.75 for Bedford Co and Blair Co PA, \$11.625 each for Onondaga Lake and Rouge River Projects, \$22 M for Mojave Water Agency (ground water research), \$2.5 M for Ogden UT, and \$6 M for KY projects.
- / \$1.074 Billion of FY94/95 funds originally reserved for a Drinking Water SRF were rescinded (leaving \$225M which is subject to the same terms as footnote 4 below).
- / These funds are setaside for authorization of a drinking water SRF. If that does not occur by 6/1/1996, they revert to the Title VI SRF.
- / The \$658 M provided is for the following State grants (FY 1995 funding levels assumed): 319 (can be used for Clean Lakes), 104(b)(3), PWS, air, radon, 106, wetlands, UIC, pesticides program implementation, lead, hazardous, pesticides enforcement, pollution prevention, toxic substances enforcement, Indians and underground tanks. The funds will be allotted by existing formulas. States can opt to consolidate them as appropriate – i.e. performance partnership grants are authorized.

## FY1996 CONTINUING RESOLUTIONS

STATE	CR3 @ 234.6M		CR3 ALLOTMENT FY1996 (CR1) EST. STATE CR3 604(b) 4 LESS 604(b) 4		CR1 ALLOTMENT FY1996 CR1+CR3 EST. STATE CR1 604(B) LESS 604(B) 4		CR1+CR3 ALLOTMENT EST. STATE ALLOTMENT		CR1+CR3 604(b) X ALLOTMENT		CR1+CR3 @330.6M	
	FY1996 (CR1) EST. STATE CR3 604(b) 4 ALLOTMENT	CR3 @100M	FY1996 (CR1) EST. STATE CR3 604(B) ALLOTMENT	CR1+CR3 604(B)	CR1+CR3 LESS 604(B) 4	FY1996 (CR1) EST. STATE CR1 604(B) ALLOTMENT	CR1+CR3 EST. STATE ALLOTMENT	CR1+CR3 LESS 604(B) 4	CR1+CR3 604(b) X ALLOTMENT	CR1+CR3 604(b) X ALLOTMENT	CR1+CR3 @330.6M	
CONNECTICUT	\$2,943,000	\$0	\$2,943,000	\$1,234,000	\$100,000	\$1,124,000	\$4,177,000	\$100,000	\$2,639,500	\$100,000	\$4,077,000	
MAINE	\$1,865,600	\$0	\$1,863,600	\$779,700	\$100,000	\$879,700	\$116,000	\$116,000	\$115,300	\$116,000	\$114,600,240	
MASSACHUSETTS	\$0,164,200	\$16,760	\$0,160,440	\$3,419,800	\$100,000	\$3,319,800	\$11,572,000	\$100,000	\$0	\$11,572,000	\$100,000	\$2,307,200
NEW HAMPSHIRE	\$2,400,700	\$0	\$2,400,700	\$1,004,500	\$100,000	\$906,400	\$3,072,000	\$100,000	\$0	\$3,072,000	\$100,000	\$2,189,400
RHODE ISLAND	\$1,513,100	\$0	\$1,513,100	\$476,300	\$100,000	\$876,300	\$2,897,400	\$100,000	\$0	\$2,897,400	\$100,000	\$1,573,800
VERMONT	\$1,177,700	\$0	\$1,179,500	\$434,500	\$100,000	\$394,500	\$1,973,900	\$100,000	\$0	\$1,973,900	\$100,000	\$1,177,700
REGION TOTAL	\$10,167,900	\$16,760	\$10,156,140	\$7,510,900	\$800,000	\$7,010,900	\$26,762,000	\$800,000	\$0	\$26,762,000	\$800,000	\$26,147,040
NEW JERSEY	\$9,814,800	\$39,320	\$9,777,471	\$4,116,100	\$100,000	\$4,016,100	\$13,932,000	\$100,000	\$0	\$13,932,000	\$100,000	\$13,793,571
NEW YORK	\$26,616,500	\$265,166	\$26,260,346	\$11,117,200	\$111,172	\$11,006,028	\$37,627,270	\$100,000	\$0	\$37,627,270	\$100,000	\$37,264,273
PUERTO RICO	\$1,133,200	\$0	\$1,133,200	\$1,133,700	\$100,000	\$1,213,700	\$4,449,300	\$100,000	\$0	\$4,449,300	\$100,000	\$4,244,900
VIRGIN ISLANDS	\$125,200	\$47,500	\$77,700	\$62,600	\$62,600	\$0	\$177,700	\$100,000	\$0	\$177,700	\$100,000	\$77,700
REGION TOTAL	\$39,690,700	\$361,384	\$39,236,716	\$16,689,600	\$363,672	\$16,236,828	\$66,190,200	\$363,672	\$0	\$66,190,200	\$363,672	\$65,474,544
DELAWARE	\$1,179,300	\$0	\$1,178,300	\$494,600	\$100,000	\$394,600	\$1,673,400	\$100,000	\$0	\$1,673,400	\$100,000	\$1,573,800
DIST. OF COLUMBIA	\$1,173,300	\$0	\$1,178,300	\$94,600	\$100,000	\$94,600	\$1,573,800	\$100,000	\$0	\$1,573,800	\$100,000	\$1,573,800
MARYLAND	\$6,610,200	\$0	\$6,810,200	\$22,436,100	\$100,000	\$22,336,100	\$8,246,400	\$100,000	\$0	\$8,246,400	\$100,000	\$8,144,200
PENNSYLVANIA	\$9,516,800	\$36,067	\$9,480,743	\$5,989,900	\$100,000	\$5,889,900	\$13,505,700	\$100,000	\$0	\$13,505,700	\$100,000	\$13,370,843
VIRGINIA	\$4,916,400	\$0	\$4,916,400	\$2,061,400	\$100,000	\$1,961,400	\$1,977,800	\$100,000	\$0	\$1,977,800	\$100,000	\$1,977,800
WEST VIRGINIA	\$3,744,900	\$0	\$3,744,900	\$1,870,200	\$100,000	\$1,870,200	\$1,470,200	\$100,000	\$0	\$1,470,200	\$100,000	\$1,216,100
REGION TOTAL	\$26,346,900	\$35,067	\$26,310,843	\$11,046,800	\$800,000	\$10,446,800	\$37,392,600	\$800,000	\$0	\$37,392,600	\$800,000	\$36,787,444
ALABAMA	\$2,684,200	\$0	\$2,682,200	\$1,128,300	\$100,000	\$1,028,300	\$2,812,600	\$100,000	\$0	\$2,812,600	\$100,000	\$2,712,600
FLORIDA	\$8,103,000	\$16,030	\$8,093,910	\$3,408,000	\$100,000	\$3,308,000	\$11,509,300	\$100,000	\$0	\$11,509,300	\$100,000	\$11,393,910
GEORGIA	\$4,061,700	\$0	\$4,061,700	\$7,703,000	\$100,000	\$7,603,000	\$6,764,700	\$100,000	\$0	\$6,764,700	\$100,000	\$6,664,700
KENTUCKY	\$3,067,600	\$0	\$3,067,600	\$1,782,000	\$100,000	\$1,182,000	\$4,239,500	\$100,000	\$0	\$4,239,500	\$100,000	\$4,239,500
MISSISSIPPI	\$2,664,400	\$0	\$2,664,400	\$807,600	\$100,000	\$807,600	\$2,717,500	\$100,000	\$0	\$2,717,500	\$100,000	\$2,717,500
NORTH CAROLINA	\$4,316,600	\$0	\$4,316,600	\$1,617,800	\$100,000	\$1,517,800	\$1,717,900	\$100,000	\$0	\$1,717,900	\$100,000	\$6,053,000
SOUTH CAROLINA	\$2,461,000	\$0	\$2,461,000	\$1,031,500	\$100,000	\$931,500	\$3,492,900	\$100,000	\$0	\$3,492,900	\$100,000	\$3,392,900
TENNESSEE	\$3,489,800	\$0	\$3,489,800	\$1,463,200	\$100,000	\$1,363,200	\$4,963,000	\$100,000	\$0	\$4,963,000	\$100,000	\$4,863,000
REGION TOTAL	\$50,366,200	\$16,590	\$50,350,110	\$12,731,900	\$800,000	\$11,531,900	\$43,937,000	\$800,000	\$0	\$43,937,000	\$800,000	\$42,261,910

## FY1996 CONTINUING RESOLUTIONS

STATE	CR3 @238.6M			CR1 @100M			CR1+CR3 @338.5M		
	FY1996 (CR3) EST. STATE CR3 604(b) 4 ALLOTMENT			FY1996 (CR1) CR3 ALLOTMENT LESS 604(b) 4			FY1996 CR1+CR3 EST. STATE CR1 604(B) ALLOTMENT		
	FY1996 (CR1) EST. STATE CR3 604(b) 4 ALLOTMENT	CR3 ALLOTMENT LESS 604(b) 4	CR1 ALLOTMENT 604(B) 4	CR1 LESS 604(B) 4	EST. STATE CR1 604(B) ALLOTMENT	CR1 LESS 604(B) 4	EST. STATE CR1+CR3 604(B) ALLOTMENT	CR1+CR3 LESS 604(B) 4	
ILLINOIS	\$10,864,800	\$64,203	\$10,810,697	\$4,565,600	\$100,000	\$4,466,500	\$16,420,300	\$164,203	\$16,266,097
INDIANA	\$6,789,500	\$0	\$6,789,500	\$2,427,500	\$100,000	\$2,327,500	\$8,217,000	\$100,000	\$8,117,000
MICHIGAN	\$10,329,400	\$46,404	\$10,282,798	\$4,231,000	\$100,000	\$4,231,000	\$14,860,400	\$14,860,404	\$14,815,786
MINNESOTA	\$4,415,400	\$0	\$4,415,400	\$1,861,200	\$100,000	\$1,761,300	\$10,266,700	\$100,000	\$10,166,700
OHIO	\$13,523,900	\$91,943	\$13,431,967	\$6,870,400	\$100,000	\$6,670,400	\$19,134,200	\$181,343	\$19,023,367
WISCONSIN	\$6,484,600	\$0	\$6,484,600	\$2,723,100	\$100,000	\$2,623,100	\$19,217,600	\$100,000	\$19,117,600
REGION TOTAL	\$61,417,500	\$192,760	\$61,224,750	\$21,558,800	\$100,000	\$20,398,800	\$72,978,300	\$182,760	\$72,182,580
ARKANSAS	\$1,671,500	\$0	\$1,571,500	\$558,900	\$100,000	\$558,900	\$2,230,400	\$100,000	\$2,130,400
LOUISIANA	\$2,640,500	\$0	\$2,540,500	\$1,107,300	\$100,000	\$1,007,300	\$1,748,100	\$100,000	\$1,648,100
NEW MEXICO	\$1,179,300	\$0	\$1,178,300	\$494,600	\$100,000	\$394,600	\$1,673,800	\$100,000	\$1,673,800
OKLAHOMA	\$1,940,500	\$0	\$1,840,500	\$813,800	\$100,000	\$713,800	\$2,754,800	\$100,000	\$2,654,800
TEXAS	\$10,980,000	\$66,838	\$10,924,162	\$4,803,800	\$100,000	\$4,603,800	\$16,883,800	\$166,838	\$16,627,982
REGION TOTAL	\$18,312,400	\$55,938	\$18,284,562	\$7,378,300	\$100,000	\$7,178,300	\$26,399,700	\$665,938	\$26,344,862
IOWA	\$3,261,300	\$0	\$3,261,300	\$1,363,200	\$100,000	\$1,263,200	\$4,614,500	\$100,000	\$4,514,500
KANSAS	\$2,188,400	\$0	\$2,188,400	\$909,200	\$100,000	\$809,200	\$3,077,600	\$100,000	\$2,977,600
MISSOURI	\$6,663,600	\$0	\$6,569,600	\$2,792,300	\$100,000	\$2,692,300	\$9,461,900	\$100,000	\$9,361,900
NEBRASKA	\$1,228,700	\$0	\$1,228,700	\$815,200	\$100,000	\$415,200	\$1,743,900	\$100,000	\$1,643,900
REGION TOTAL	\$13,308,000	\$0	\$13,208,000	\$6,679,900	\$400,000	\$6,579,900	\$16,887,900	\$400,000	\$16,487,900
COLORADO	\$1,921,600	\$0	\$1,821,600	\$805,700	\$100,000	\$705,700	\$2,727,500	\$100,000	\$2,627,500
MONTANA	\$1,179,300	\$0	\$1,179,300	\$944,600	\$100,000	\$844,600	\$1,673,800	\$100,000	\$1,573,800
NORTH DAKOTA	\$1,178,200	\$0	\$1,179,300	\$494,500	\$100,000	\$394,500	\$1,673,800	\$100,000	\$1,573,800
SOUTH DAKOTA	\$1,179,300	\$0	\$1,179,300	\$944,600	\$100,000	\$844,600	\$1,673,800	\$100,000	\$1,573,800
UTAH	\$1,265,800	\$0	\$1,265,800	\$850,700	\$100,000	\$840,700	\$1,796,500	\$100,000	\$1,696,500
WYOMING	\$1,179,300	\$0	\$1,179,300	\$944,600	\$100,000	\$844,600	\$1,673,800	\$100,000	\$1,573,800
REGION TOTAL	\$7,904,600	\$0	\$7,904,600	\$3,114,400	\$600,000	\$2,714,400	\$11,219,000	\$600,000	\$10,619,000

CRI+CR3 @JJJ.B.W

		FY1996 (CRJ)		FY1996 (CRJ)		FY1996 (CRJ)		FY1996 (CRJ)		CRI+CRJ ALLOTMENT	
STATE	ALLOTMENT	EST. STATE	CRJ 604(B) 4	CRJ ALLOTMENT	LESS	EST. STATE	CRJ 604(B)	CRJ ALLOTMENT	LESS	EST. STATE	CRJ 604(B) 4
STATE	ALLOTMENT	604(b)(4)	604(b)(4)	604(b)(4)	604(b)(4)	604(b)(4)	604(b)(4)	604(b)(4)	604(b)(4)	604(b)(4)	604(b)(4)
ARIZONA	\$1,622,600	\$0	\$1,622,600	\$860,300	\$100,000	\$580,300	\$230,200	\$100,000	\$2,302,300	\$24,141,051	\$24,141,051
CALIFORNIA	\$17,181,100	\$143,849	\$17,037,261	\$1,203,800	\$100,000	\$7,103,800	\$24,384,900	\$24,384,900	\$24,384,900	\$2,540,700	\$2,540,700
HAWAII	\$1,866,600	\$0	\$1,866,600	\$780,100	\$100,000	\$680,100	\$24,640,700	\$100,000	\$24,640,700	\$1,073,800	\$1,073,800
NEVADA	\$1,173,300	\$0	\$1,173,300	\$494,600	\$100,000	\$394,600	\$1,873,800	\$100,000	\$1,873,800	\$100,000	\$100,000
AMERICAN SAMOA	\$215,700	\$9,600	\$206,100	\$90,400	\$90,400	\$0	\$306,100	\$100,000	\$306,100	\$100,000	\$100,000
GUAM	\$166,100	\$34,600	\$121,600	\$66,400	\$66,400	\$0	\$121,600	\$100,000	\$121,600	\$100,000	\$100,000
MARIANAS T T OF PALAU	\$109,200	\$58,000	\$42,200	\$42,200	\$42,200	\$0	\$142,200	\$100,000	\$142,200	\$100,000	\$100,000
REGION TOTAL	\$309,449	\$22,083,361	\$22,083,361	\$8,393,100	\$634,400	\$6,758,700	\$31,785,900	\$942,849	\$30,852,061	\$30,852,061	\$30,852,061
ALASKA	\$1,437,800	\$0	\$1,437,800	\$602,800	\$100,000	\$602,800	\$2,040,500	\$100,000	\$2,040,500	\$1,940,500	\$1,940,500
IDAHO	\$1,175,200	\$0	\$1,175,200	\$494,500	\$100,000	\$394,500	\$1,973,800	\$100,000	\$1,973,800	\$1,573,800	\$1,573,800
OREGON	\$2,713,800	\$0	\$2,713,800	\$1,137,800	\$100,000	\$1,037,800	\$3,961,600	\$100,000	\$3,961,600	\$3,761,600	\$3,761,600
WASHINGTON	\$4,177,800	\$0	\$4,177,800	\$1,761,600	\$100,000	\$1,661,600	\$5,225,200	\$100,000	\$5,225,200	\$5,029,200	\$5,029,200
REGION TOTAL	\$9,805,600	\$0	\$9,805,600	\$3,986,700	\$400,000	\$3,586,700	\$13,486,200	\$400,000	\$13,486,200	\$13,096,200	\$13,096,200
SUB-TOTAL	\$237,307,500	\$976,928	\$236,331,672	\$99,600,000	\$6,400,072	\$94,001,928	\$336,407,500	\$1,692,500	\$336,407,500	\$330,353,500	\$330,353,500
INDIAN SET-ASIDE	\$1,192,500	\$0	\$1,192,500	\$60,000	\$0	\$0	\$1,192,500	\$0	\$1,192,500	\$0	\$0
TOTAL	\$236,500,000	\$0	\$236,500,000	\$100,000,000	\$0	\$0	\$336,407,500	\$0	\$336,407,500	\$330,353,500	\$330,353,500

## ATTACHMENT C

September 1995

## Survey of State State Revolving Loan Fund Needs

	<b>SRF funding needed to meet project needs in first half of FY 1996</b>	<b>Project funds available under the FY96 CRs</b>	<b>Expected municipal SRF needs for next 5 years</b>
Alabama	30,000,000	3,712,500	
Alaska		1,940,600	50,000,000
Arizona	111,100,000	2,202,900	500,000,000
California	376,200,000	24,141,051	2,500,000,000
Florida	38,300,000	11,393,910	1,000,000,000
Georgia	362,000,000	5,664,700	150,000,000
Idaho	13,200,000	1,573,800	100,000,000
Illinois	144,000,000	15,266,097	2,500,000,000
Iowa	20,000,000	4,514,500	104,000,000
Kentucky	60,743,749	4,239,500	100,000,000
Louisiana	25,000,000	3,648,100	150,000,000
Maine		2,539,300	83,000,000
Maryland		8,146,300	250,000,000
Massachusetts	132,000,000	11,460,240	1,000,000,000
Michigan	200,000,000	14,513,796	600,000,000
Minnesota		6,166,700	115,000,000
Missouri	72,020,000	9,351,900	40,000,000
Montana		1,573,800	575,000,000
Nebraska		1,643,900	30,000,000
New Hampshire	16,000,000	3,307,300	272,000,000
New Jersey		13,793,571	400,000,000
New Mexico	8,000,000	1,573,800	48,000,000
New York	568,000,000	37,256,373	10,000,000,000
North Carolina	32,265,000	6,053,500	250,000,000
North Dakota	5,000,000	1,573,800	20,000,000
Oklahoma	10,800,000	2,654,600	102,000,000
Oregon	44,000,000	3,751,600	100,000,000
Pennsylvania	20,000,000	13,370,643	250,000,000
Rhode Island		2,189,400	475,000,000
South Carolina	3,500,000	3,392,900	100,000,000
Utah	49,000,000	1,696,500	75,000,000
Virginia	88,000,000	6,877,800	50,000,000
Washington	42,684,149	5,829,200	3,200,000,000
West Virginia		5,215,100	90,000,000
Wyoming	3,600,000	1,573,800	30,000,000
<b>TOTAL</b>	<b>2,475,412,898</b>	<b>243,803,481</b>	<b>25,309,000,000</b>

AMERICA'S CLEAN WATER: THE STATES' EVALUATION OF  
PROGRESS 1972-92

# Letter to Congress and the American People

**C**ongress passed the Clean Water Act more than twenty years ago. Known officially as the "Federal Water Pollution Control Act Amendments of 1972," the Act established a national mission to "restore and maintain the chemical, physical and biological integrity" of America's waters. Think about that mission — it is almost overwhelming! We knew when we passed the legislation that we had set ambitious goals. But, we knew the state of our waters and we knew that the American people expected action.

How have we done? Well, with more than twenty years of progress, a network of clean water programs has been developed to address national, State, regional and local water quality issues. Many of the nation's water bodies have achieved water quality which fully support fishing, swimming and public consumption. What a change from the 1960's when some waters were so polluted that they had no aquatic life or were ablaze.

We can be truly proud of our achievements. And yet with the ever increasing population and the complexities of our lifestyles, we are also challenged by the magnitude of the tasks yet to be completed. For example, we are still in the early stages of addressing the significant problems caused by pollution from nonpoint source runoff. By their very nature, these diffuse sources will be much more difficult to control than point sources.

As two of the authors of the 1972 Clean Water Act, we believe the nation is capable of meeting these challenges and that, with renewed commitment, we can forge an even more effective Clean Water Program. We are delighted to introduce America's Clean Water, the States' Evaluation of Progress, 1972-1992, as a useful basis for the critical decisions to assure this nation's future water quality.

We hope you will join the efforts to achieve clean water for all humanity.  
Sincerely,

**THE HONORABLE EDMUND MUSKIE**  
*Member of U.S. Senate (1958-1980)  
Secretary of State (1980-1981)*

**THE HONORABLE HOWARD BAKER**  
*Member of U.S. Senate (1967-1985)  
White House Chief of Staff (1987-1988)*

# What Two Decades Can Do

## Clean Water Accomplishments

### Water quality has improved

With increased population and expanded economic development there has been, since 1972, both a greater demand for industrial, municipal and recreational use of our waters and a tremendous increase in pollution that needed to be addressed. Therefore, it is most significant that the U.S. has not only maintained its water quality but made remarkable improvements.

### Between 1972-1992:

- For Rivers and Streams, 98% of miles maintained or improved quality, while only 2% were degraded.
- For Lakes, 96% of acres maintained or improved quality, while only 4% were degraded.

In 1992, 69% of river miles, 57% of lake acres, 71% of estuary square miles and 89% of linear coastal miles assessed fully supported their designated uses.

How have these improvements come about? This report highlights three major contributors to water quality improvements:

- Improved municipal and industrial wastewater treatment,
- Enhanced water quality management programs and
- Expanded focus on nonpoint source pollution and ground water protection programs.

**T**he Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), known as the Clean Water Act, made sweeping changes in how the nation approached its water pollution problems. In the early 1970's reports were all too frequent of fish disappearing from rivers and streams, lakes choked with algae and beaches posted against swimming or shell fishing. Passage of the Clean Water Act began an unprecedented effort to control pollution through State, federal and local governments working together with industry, environmental groups, and individual citizens to clean up and protect our waters.

America's Clean Water, the States' Evaluation of Progress, 1972-1992, prepared by the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), documents the progress of this committed effort and identifies areas in need of further attention. (See page 23 for a glossary of terms.)

### **Wastewater treatment has improved**

Between 1972 and 1992 municipal wastewater treatment expanded dramatically, for example:

- In 1972, over 34 million people were served by municipal systems which provided no wastewater treatment or had only primary treatment. In 1992, this number was reduced to 1.15 million.
- Advanced treatment was expanded from 5.7 million people served in 1972 to over 60 million in 1992.

Achieving these and other improvements has required a governmental investment of over \$84 billion in wastewater treatment since 1972. The corporate investment in pollution control is estimated to be more than twice that amount. In every State, citizens can point to restored water bodies which improved the quality of life and economic vitality.

- In 1992, 90% of major municipalities and 93% of major industries with permits were in significant compliance.

### **State water quality management programs expanded to give better environmental protection**

- Water quality standards, the foundation upon which State water quality programs are built, included an average of 158 pollutant criteria in 1992 in comparison to only 5 in 1972. This expansion has helped States make better decisions, set priorities and control pollution.

- State and national monitoring programs have become more sophisticated and now include comprehensive information collection to assess pollution and ecosystem needs. Enhanced monitoring capabilities have resulted in more effective water quality programs.
- In 1972, there was no national permit program. By 1992, permits restricting water pollution had been issued to more than 64,000 point source dischargers.
- In 1992 alone, States allocated, from federal and State sources, more than \$450 million for surface water program implementation and more than \$200 million for ground water protection.

### **Programs moved forward to control nonpoint source pollution and protect ground water**

Relatively few nonpoint source protection programs existed in 1972. In contrast, in 1992 all 50 States have such programs.

Since 1972, State ground water programs have also greatly expanded, to the point that virtually all States have comprehensive programs. In 1992, for example, 27 States and Territories had USEPA approved wellhead protection programs. In addition, States are involved with USEPA in a volunteer effort to develop a cooperative approach to ground water management called the Comprehensive State Ground Water Protection Program.

**R E M A I N I N G C H A L L E N G E S**

As this report shows, significant improvements have been made in the State capacity to protect the environment and control point source discharges of pollution. As States look toward the future of water quality protection, it is important to identify the challenges that are before us. They include:

**Continuing to control point source pollution**

There remains \$200 billion in infrastructure and wastewater treatment needs. Attention must be paid to the construction, operation and maintenance of treatment plants, to the implementation of toxic standards and to the resolution of regional water quality issues (e.g., the Great Lakes and the Chesapeake Bay).

**Maintaining and improving existing programs in the face of increasing budgetary pressures**

Even with significant State and federal contributions exceeding \$650 million for surface and ground water, the investment in 1992 fell 36% short of estimated funding needs for a basic level of required programs under the existing Clean Water Act.

**Expanding nonpoint source protection**

Point source programs have greatly benefited from more than two decades of priority attention and billions in public and private funding. Nonpoint source pollution, with its complexities, demands equal or even greater attention.

**Developing and implementing State approaches to watershed or ecosystem protection**

Comprehensive and coordinated programs allow States to be more efficient in addressing the combined effects of point and nonpoint source pollution.

**Coordinating federal ground water programs with State and local efforts**

Federal ground water programs currently exist under more than 13 national laws which complicate State and local efforts to adequately protect the resource.

**Protecting wetlands**

Consensus among diverse interests is critical in order to protect wetlands in States and to avoid inconsistency and duplication in decision making.



**T**he change  
in how we view  
water pollution is  
a significant sign  
of success.  
*Municipalities,*  
*as well as industries*  
*and the public,*  
*have developed a*  
*pollution control*  
*ethic that was not*  
*widespread in 1972.*

# Trends in the Nation's Water Quality 1972-1992

*O*ften, the best signs of success are site-specific and, therefore, difficult to summarize statistically. "We have a bass fishery on our river." "The lake is no longer clogged with algae." "The water is clear in the bay instead of brown."

**A**merica is rich in water resources. The responsibility to manage, assess, restore and protect these precious resources is shared jointly by federal and State governments. Under delegation, States manage the vast majority of the water pollution control activities and the U.S. Environmental Protection Agency (USEPA) maintains oversight to assure compliance with the Clean Water Act. Local governments and "Corporate America" also play a key role in program implementation. In the United States, there are:

- 2.6 million river miles,
- 40 million lake acres,
- 35,500 square miles of estuaries and bays,
- 55,480 linear miles of coastal waters,
- 5,380 Great Lakes shore miles,
- 238.8 million acres of freshwater wetlands and
- 81.9 million acres of tidal wetlands.

## The Goal

The 1972 Clean Water Act established the goal for these waters of protection and propagation of fish, shellfish, wildlife and recreation ("fishable/swimmable" water quality) wherever attainable. Most of the nation's surface waters are "classified" to achieve this goal.

**GRAPHIC I Stream and Lake Water Quality 1972-1992****STREAM WATER QUALITY****1972 (348,100 Total Miles Assessed)****1992 (784,000 Total Miles Assessed)****LAKE WATER QUALITY****1972 (11,600,000 Total Acres Assessed)****1992 (19,800,000 Total Acres Assessed)**

States assign each water body appropriate uses (e.g., cold or warm water fisheries, swimming, etc.) and design programs to achieve these designated uses. They evaluate water quality based on the degree to which the waters support their designated uses. Some States are able to evaluate all waters while others can assess a limited number depending upon: 1) the amount of waters in the State, 2) the distribution and severity of pollution sources and 3) the availability of funds.

In 1992, States assessed 30% of river miles, 50% of lake acres, 76% of estuaries, 6% of coastal waters and 100% of the Great Lakes for the presence of over 150 pollutants in levels that are harmful to public health or the environment.

**Rivers**

A river can be a creek in a neighbor's backyard, a raging stream on the highest mountain top, a trickle in the desert or a powerful force like the mighty Mississippi. Rivers often flow great distances and can be affected by a host of different pollution sources. As Graphic I indicates, of the 784,000 river miles States assessed in 1992:

- 69% fully supported their designated uses.
- 21% partially supported their uses.
- 10% did not support their uses.

From 1972 - 1992, in waters for which States could do comparable analysis:

- 92% of miles maintained their quality.
- 6% improved.
- 2% were degraded.

Viewed in the context of the 24.5% population increase, significant economic expansion, unprecedented residential and urban development and unparalleled increased recreational use, this is a tremendous success and accomplishment.

## Lakes and Reservoirs

In 1992, States (excluding Alaska) assessed 19.8 million lake acres:

- 57% fully supported their designated uses.
- 31% partially supported their uses.
- 12% did not support their uses.

Between 1972 and 1992 for areas where States had comparable data:

- 94% of the lake acres assessed maintained quality.
- 2% improved.
- 4% were degraded.

## Bays and Estuaries

In 1992, as Table 1 indicates, States assessed 26,800 square miles, (37% more than in 1972) of which:

- 71% fully supported their designated uses.
- 20% partially supported their uses.
- 9% did not support their uses.

## Coastal Waters

In 1992, 12 States assessed 3,380 linear miles, (46% more than in 1972) of which:

- 89% fully supported their designated uses.
- 7% partially supported their uses.
- 4% did not support their uses.

## The Great Lakes

The Great Lakes have 1/5 of the world's fresh surface water. As Table 1 indicates, States assessed all 5,380 linear shore miles in 1992 of which:

- 3% fully supported their designated uses.
- 31% partially supported their uses.
- 66% did not support their uses.

Over the past twenty years there have been significant improvements in Great Lakes water quality. Even so, 3,560 miles do not support their uses, due to past discharges of chemicals such as pesticides and PCBs.

<i>Use Support in 1992 of:</i>	<i>Bays and Estuaries (sq. miles)</i>	<i>Coastal Waters (linear miles)</i>	<i>The Great Lakes (shore miles)</i>
Supporting Uses	18,900	2,990	150
Partially Supporting Uses	5,400	250	1,670
Not Supporting Uses	2,500	140	3,560
Total Assessed	26,800	3,380	5,380



**T**wenty six percent of river miles and 44% of lake acres assessed are currently threatened or partially support their designated uses. Enhanced pollution prevention is critical to avoid further degradation and the need for costly cleanup.

**S**tate water  
*quality assessments  
 generally focus on  
 known problem  
 areas or waters  
 affected by human  
 activity. In general,  
 the quality of waters  
 not assessed is  
 believed to be  
 better than for those  
 assessed.*

## Clean Water Act Programs 1972-1992

The progress States reported over the last two decades in improving and protecting water quality is due to an unprecedented effort to control pollution by State, local and federal governments along with the public and private sectors. This effort embodied State standards, monitoring, point source, nonpoint source, ground water management and financing programs.

### Water Quality Standards

Water quality standards consist of designated uses and technical criteria that indicate the amount of a pollutant (e.g., mercury or ammonia) that may be present in a water body without causing chemical or biological harm. Standards vary depending upon the specific waters and ecosystem, natural conditions, pollutants present and attainability of the goal. Under the Act, States update standards every 3 years.

**TABLE 2**  
*Numeric Criteria*

	Average Number in State Water Quality Standards*		
	1972	1982	1992
<b>Criteria for Toxics to Protect:</b>			
Freshwater Aquatic Life		7	43
Marine Aquatic Life		5	33
Human Health		5	70
<b>Criteria for Other Pollutants</b>	5	8	12
<b>Total on Average</b>	5	25	158

\*States also utilize narrative criteria (e.g., there can be no pollutants in an amount toxic to aquatic life) that are translated in the permit process into numeric pollution control requirements.

**TABLE 3** *Number of State Samples Taken*

<b>Types of Monitoring</b>	<b>Ambient</b>	<b>Effluent Point Source</b>	<b>Fish Tissue</b>	<b>Watershed &amp; Special Studies</b>	<b>Number of States Reporting</b>
1972	308,000	22,000	1,000	20,000	38
1982	351,000	32,000	4,000	32,000	42
1992	153,000	36,000	11,000	29,000	43

*Note: Results do not include monitoring by federal agencies, local governments, private citizens and point sources.*

#### **Criteria**

Since 1972, there has been a dramatic growth in the number of criteria for pathogens, sediments, nutrients and toxic pollutants such as organic chemicals, heavy metals and pesticides (see Table 2). The expansion of criteria development has enabled States to make better decisions and provide more environmental protection.

States are currently expanding criteria to more fully address ecosystem needs. By 1992, for example, 14 States had wildlife criteria, 5 States had wetlands criteria, 4 States had biological criteria, and 1 State had developed criteria for sediments.

#### **Antidegradation Policy**

All States have antidegradation policies that require existing uses and the quality of outstanding waters to be protected from degradation. When implementing antidegradation policy, States must examine complex issues such as desired water uses and the impact of economic development and population growth.

#### **Monitoring**

States and Interstate Agencies monitor ambient water quality, fish tissue and specific point sources. In addition, intensive monitoring is conducted in specific watersheds to develop efficient and effective control strategies for point and nonpoint sources.

These activities are supplemented by federal and local government, volunteer citizens and point source self-monitoring programs.

Over the years, States have enhanced their monitoring strategies, and yet as Table 3 indicates, ambient monitoring has declined. This is due to resource constraints and the need for additional types of monitoring. There has been an increase in State personnel since 1972 to support the more resource intensive and time-consuming monitoring activities. Even so, States agree that it is not adequate to address priority problems. An increase in funds is critical to maintain existing monitoring activities and meet future pollution control needs.

#### **Point Source Control Programs**

Municipal wastewater treatment systems, storm sewer systems in large urbanized areas and industrial activities are common point sources of pollution. Under the Clean Water Act's National Pollutant Discharge Elimination System (NPDES), point source discharges must be regulated by permits. By 1992, responsibility for the permit program was delegated by USEPA to 39 States.

An extensive regulatory framework has been put into place resulting in over 7,000 permits to major sources and 57,000 permits to minor sources.

These permits regulate more than 135 billion gallons of wastewater and cooling water discharged daily. Permits must be revised periodically to reflect more rigorous water quality standards, new technology, improved monitoring, better information and changed conditions.

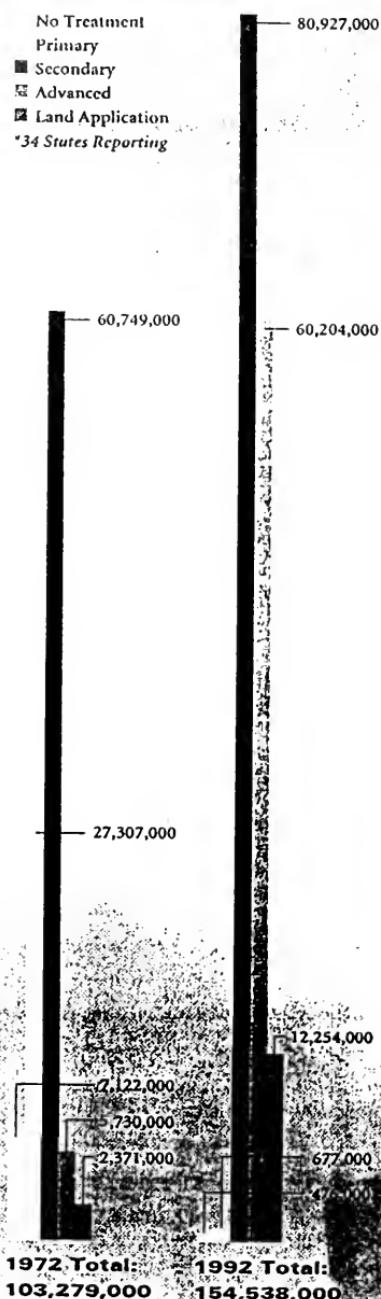
#### Municipal Wastewater Treatment

The extent of municipal wastewater treatment has increased dramatically over the past twenty years (see Graphic II).

- The population served by facilities with only primary or no treatment has been virtually eliminated, dropping from 33% of the population served in 1972 to less than 1% in 1992.
- Between 1972 and 1992, the population served by:
  - Secondary (technology based) treatment increased by 33%.
  - More advanced treatment (to meet water quality standards) increased by 950%.

The most widely used measure of effective treatment is biochemical oxygen demand (BOD), which is the extent to which pollutants can deplete the receiving water's oxygen level that is needed to sustain fish and other aquatic life. Since 1972, the total amount of BOD generated daily by households and industries that are served by municipalities increased, while the total amount actually discharged to receiving waters after treatment was greatly reduced (see Graphic III).

**GRAPHIC II**  
*Population Served by Centralized Municipal Wastewater Systems\* and Level of Treatment Provided*



## Combined Sewer Overflows

Combined sewer overflows (CSOs) are a major remaining point source problem in older cities generally established before 1900. Over 800 communities serving 27 million people have CSO systems with 8,400 discharge points to water bodies.

CSOs were designed as both sanitary waste and stormwater collection systems. Most combined sewers can accommodate normal flow, but when it rains, the volume of stormwater runoff can increase dramatically. The sewers back up, the treatment plant capacity is exceeded, and the flow is discharged to waterways without treatment.

While progress is being made to resolve CSOs (see Graphic IV), the magnitude, complexity and expense of remedying the problem (which could exceed \$40 billion) is staggering. Control of CSOs will be a time consuming and costly venture.

## Water Infrastructure Investment

State, federal and local governments have made substantial investments to improve municipal wastewater treatment. The 1972 Clean Water Act created a federal grant program that was, in 1987, transformed into the State Revolving Loan Fund (SRF). All 50 States have established SRFs, under which funds are loaned to communities generally at reduced interest rates. The Fund revolves in perpetuity as loans are repaid and new loans are made. Since 1972, with grants and loans:

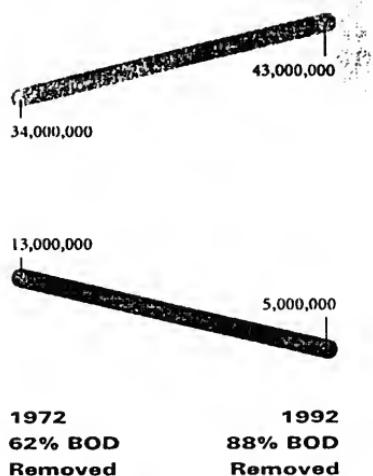
- 12,700 municipal projects have been completed.
- \$85 billion has been allocated in federal, State and local matching funds including \$11 billion for the SRF.

## GRAPHIC III

### Municipal Sewage Plant Performance 1972-1992

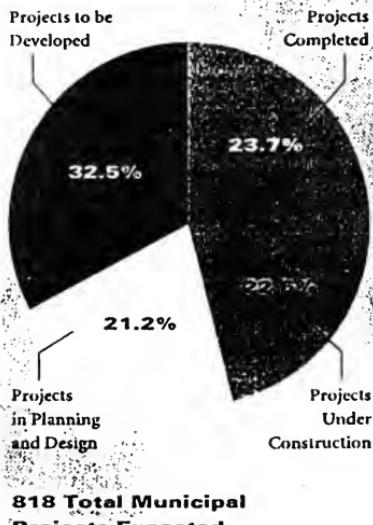
(Pounds of Biochemical Oxygen Demand per day)

■ Generated  
■ Discharged to Waters After Treatment



## GRAPHIC IV

### Progress in Addressing Combined Sewer Overflows



Continued success of the SRF will depend upon further capitalization and aggressive compliance programs. States estimate over \$200 billion in needs due to the 1987 Clean Water Act Amendments and previously existing, but unmet, requirements.

#### Toxics

Permits contain requirements for eliminating toxicity. This is a growing area of program importance. To date, approximately 60% of the major permits include biological monitoring requirements to better assess impacts of pollutants discharged on the ecosystem. Extensive analysis of facility operations and treatment systems have been conducted by 13% of major permittees to isolate toxicity problems and to find potential solutions. These efforts are supplemented by "end of the pipe" effluent monitoring. In addition, "pretreatment" programs are operated by 1400 municipalities to regulate industries that discharge wastewater into sewer systems rather than water bodies.

#### Compliance

Achievement and maintenance of compliance are ongoing challenges.

Permit violations can range from serious excursions from treatment requirements to the failure to file reports on time.

Compliance rates have improved, but municipalities generally lag behind industries (see Table 4). Of those major sources in significant non-compliance, 90% of industrial and 86% of municipal violations were addressed promptly through enforcement action.

### **Nonpoint Source Management**

Nonpoint pollution sources are diffuse with no single point of origin (e.g., a pipe). They include runoff from agricultural and urban land areas, small construction sites, land disposal and forestry activities, cross-media transfers of pollution (e.g., air deposition) and impacts of hydro-modification (e.g., dams, stream channelization, etc.).

From its inception, the Clean Water Act focused primarily on the control of major industrial and municipal point sources. This was because of the magnitude and impacts of such sources on water quality. The Act, in 1972, also established a framework under Section 208 for nonpoint sources to be addressed, but early efforts focused primarily on local/regional planning rather than the development of statewide programs.

**TABLE 4 Major Dischargers**

<b>Percentage of Major Permits:</b>	<b>Municipal Permits 1982</b>	<b>Industrial Permits 1982</b>	<b>1992</b>
In compliance	74%	84%	87%
Not in compliance	26%	16%	13%
<i>In non-compliance due to significant violations</i>		10%	7%

# N<sup>a</sup>onpoint

*pollution controls*

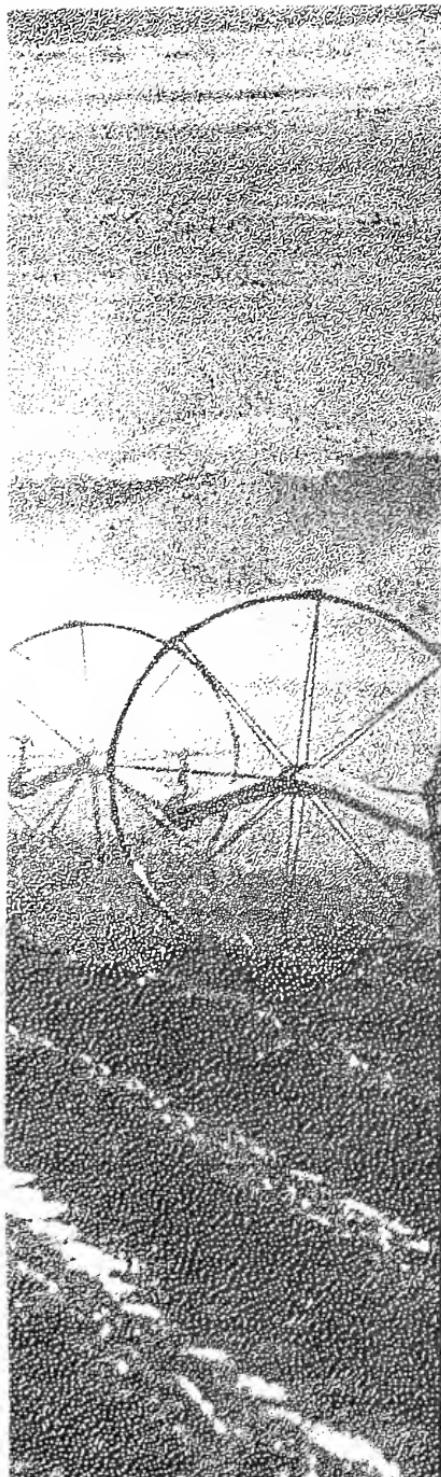
*involve land use and  
behavioral changes*

*by land owners,  
municipalities,*

*industry and the  
public at large.*

*Management  
approaches and  
solutions are  
needed instead of*

*the traditional  
“command and  
control” mandates  
relied upon in the  
point source  
program.*



**T**o ensure clean water for ourselves and future generations, we must pay attention to our actions that contribute to nonpoint source pollution.

As point source issues were addressed, it became increasingly clear that nonpoint sources were a major contributor to the remaining water quality problems (see Graphic V). The 1987 Clean Water Act Amendments reflected the need to move beyond planning to create a nonpoint source management implementation program under Section 319. The program initially focused on site-specific demonstration projects, but it is now moving toward long-term, comprehensive State programs.

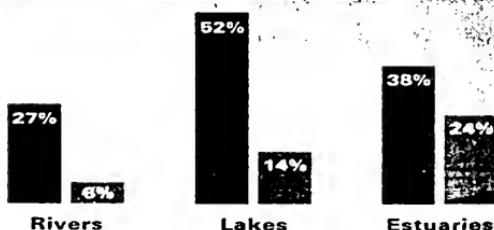
Reducing nonpoint source pollution demands careful attention to land management issues that affect large segments of society. Philosophical shifts will need to occur in the citizenry and pollution control must take into account local economic and geographic conditions. States must use an interdisciplinary approach involving many State and federal agencies (e.g., USEPA and U.S. Departments of Agriculture, Transportation and Interior), local governments, businesses, citizens and land owners. Specific management practices may involve, for example, shaping and re-seeding streambanks, building fences to exclude animals from streams, fencing small construction sites to stop soil erosion and making individuals aware of what is harmful to dump into a drain or backyard.

#### GRAPHIC V

*Percentage of Assessed Waters Impacted by Nonpoint Sources vs. Point Sources*

- Nonpoint Sources
- Point Sources

*Waters that are partially or not supporting their designated uses or are threatened due to point or nonpoint sources of pollution. A water body can be impacted by both.*



States have made significant improvements in nonpoint source control programs. Even so, to maintain and improve overall water quality, State programs need increased:

- *Coordination, flexibility and support* among State agencies and between State and local governments,
- *Consistency* of federal land management activities with State priorities,
- *Personnel* to carry out the program,
- *Public education* and awareness programs,
- *Research and technical expertise*,
- *Monitoring* protocols,
- *Funding and incentives* for participation in the national program and
- *Reasonable timeframes* for implementation.

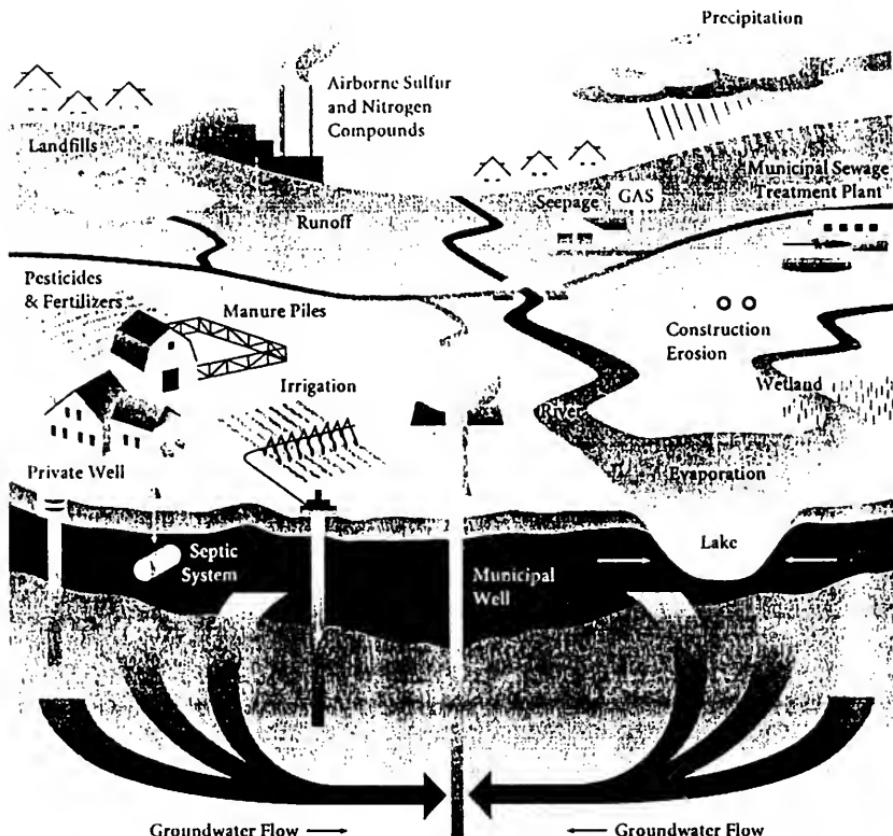
Approximately 95% of the freshwater in the world is ground water, hence ground water quality and availability is of critical importance. In the United States, over 1/2 of the nation's population depend on ground water as their principle source of drinking water. The second major use is agricultural irrigation, accounting for nearly 34% of the total ground water consumed. Considering increased population demand and periodic drought conditions, ground water protection is an ever increasing priority.

Ground water contamination is difficult to detect, and once found, very costly to cleanup. State agencies work with federal and local governments to identify potential sources of contamination to ground water. A protection program is then developed with strategies and action plans. For example, in 1992, 27 States and Territories had USEPA approved wellhead protection programs. There were also ten States involved in a voluntary effort with USEPA to develop and support a cooperative approach under the Comprehensive State Ground Water Protection Program. Results will be used as model approaches for the creation of other State programs.

## **Ground Water Management**

Ground water is found below the earth's surface, filling the cracks and spaces between soil and rocks, in much the same way that water saturates a sponge. It comes from rain and snow and travels through the soil to underground aquifers. Soil and rock formations hold the water which may be transmitted to the surface through wells or springs and seepage into lakes and rivers (see Graphic VI on next page).

Ground water is not specifically addressed through one national policy. Instead, over 13 federal laws incorporate ground water protection into their policies. It is important to note that while federal oversight is provided through three primary agencies (the U.S. Department of Agriculture, the U.S. Geological Survey and the USEPA), it is the State governments that have the primary role of protecting ground water.

**GRAPHIC VI** Surface and Groundwater Management in a Watershed**TABLE 5 Components of the States' Ground Water Programs****60%-70% of States have:**

- an interagency coordination committee
- a classification system for ground water uses
- ground water and cleanup standards
- regulatory programs in addition to permitting
- authority to regulate ground water withdrawals
- public education
- public drinking water wellhead protection programs

**80%-90% of States have:**

- permitting programs
- a ground water pollution control strategy
- mapping of ground water



*G*round water quality may be impacted by leaking landfills or underground storage tanks, failing septic systems, surface runoff from agricultural fields or urban areas, animal waste and saltwater intrusion.

**T**he most significant funding shortfalls in State Programs relate to:

- **Stormwater controls**
- **Ambient monitoring**
- **Nonpoint sources**
- **Ground water protection**
- **Permitting of minor point sources**
- **Wetlands protection and restoration and**
- **Watershed management.**

State ground water programs have greatly expanded in scope and complexity (see Table 5 on page 18). In 1992 alone, States committed \$200 million to fund ground water quality protection programs, with only a small percentage coming from the federal government. To better protect this critically important resource, ground water protection programs need:

- *Coordination of federal programs with State and local efforts,*
- *Expansion of fiscal and professional resources,*
- *Implementation of wellhead protection programs,*
- *Education and research programs and*
- *Prevention of pollution.*

### **State Management Funding**

Federal funding for the States to implement the Clean Water Act has remained relatively constant since 1972 (considering inflation), while the Act's mandates have increased dramatically. In 1992, \$450 million was spent at the State level to manage the national surface water program, of which \$280 million was from State general appropriations, permit fees, etc. This is in addition to \$78 million for State administration of the State Revolving Loan Fund and \$200 million of essentially State funds allocated for ground water protection.

There is a \$250 million (36%) gap between funds available and the over \$700 million needed to carry out existing surface water requirements under the Act at a basic level of services. Public expectations must be met with expanded funding, innovation, streamlining and improved efficiency.

## **Program Directions and Needs Identified by States**

### **Most in Need of Funding**

- Nonpoint Source Management
- State Implementation of Clean Water Act programs
- State Revolving Loan Fund

### **Most in Need of Research**

- Water Quality Standards and Criteria
- Monitoring and Assessment Techniques
- Sediment Contamination
- Effectiveness of Nonpoint Source Controls

### **Most in Need of Policy Development and Clarification of State/Federal Roles**

- Wetlands Protection
- Nonpoint Source Management
- Ground Water Management
- Watershed Management

### **Most Environmentally Critical**

- Nonpoint Source Management
- Ground Water Management
- Wetlands Protection
- Pollution Prevention

## **Summary**

**T**he Clean Water Act is one of the most significant national achievements of this century. Under its framework, State, federal, and local environmental agencies have put into place successful and effective water quality programs. These investments have paid tremendous dividends toward enhancing and protecting our nation's waters and improving our economy and quality of life.

ASIWPCA and its State members are committed to the continuation and enhancement of the Clean Water Program. We anticipate drawing on the enthusiasm and skill of all who care about clean water to comprehensively address the ever more complex water quality issues in the years to come.

# ASIWPAs Project:

## **America's Clean Water, The States' Evaluation of Progress, 1972-1992**

This report to Congress and the American people was developed by the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) and its State members. The information was compiled to comprehensively assess the status of America's waters, in recognition of the 20th Anniversary of the Act and in anticipation of the need to reauthorize the Act.

ASIWPCA was created in 1961 as the national, nonpartisan professional organization of State water quality program administrators. ASIWPCA members — the States, the Interstate Agencies, Territories and the District of Columbia — are the officials who, on a daily basis, implement surface and ground water protection programs throughout the nation.

*America's Clean Water, The States' Evaluation of Progress, 1972-1992* reflects data from reports voluntarily provided by 50 State and 2 Interstate Water Pollution Control Agencies. They reached conclusions using a combination of:

- long-term trend monitoring records,
- short-term intensive surveys and other monitoring data,

- professional judgments and direct observations by pollution control, fish and wildlife and other natural resource agencies and
- program information.

This document builds on two previous ASIWPCA reports: *America's Clean Water, The States' Evaluation of Progress, 1972-1982* and *America's Clean Water, The States' Nonpoint Source Assessment, 1985*.

ASIWPCA's *Success Stories, 1972-1992* is a companion document to this report that provides State-specific examples of projects and programs that have improved water quality. *Success Stories* and this report are available at a cost of \$25 each by contacting ASIWPCA, 750 First Street, NE, Suite 910, Washington, DC 20002, 202-898-0905.

Special recognition is given to the following for their outstanding effort in producing this report: the Survey Development Committee chaired by Harold Reheis (GA) and Clyde Bohmfalk (TX), the ASIWPCA Board of Directors, the ASIWPCA Task Force leadership and the staff of the 50 States and 2 Interstate Agencies who took the time required to compare the 1972 and 1992 information and complete the survey. A special thank you to those States who worked with the ASIWPCA staff in finalizing this important document.

### **ASIWPCA Staff**

Roberta (Robbi) Savage  
*Executive Director*

Linda Eichmiller  
*Deputy Director and Project Manager*

Janeen Shaffer  
*Project Assistant*

# Glossary

## Terms Not Fully Defined in the Text

### Designated Uses

The component of State water quality standards that identifies the uses of a water body to be protected and achieved (e.g., fisheries, swimming

and secondary recreational contact such as boating).

### Major Sources

A major point source facility is one that has:

- a design or actual flow of one million gallons per day,
- a service population of 10,000 or greater or
- a significant impact on water quality.

### Minor Sources

A minor point source facility is one that does not meet the criteria of a major source.

Examples of Designated Uses	Fully Supporting	Partially Supporting	Not Supporting
<b>Aquatic Life</b>	Waterbody is fully supporting the designated diverse aquatic life community. Standards are only exceeded 0-10% when analyzed.	Balanced aquatic community is not fully supported (e.g., some species may not be able to propagate). Standards are exceeded 11-25%.	Community is definitely imbalanced and/or severely stressed (i.e. one species may no longer exist). Standards exceeded 25% when analyzed.
<b>Public Water Supply</b>	No detection of chemicals of concern. Human health criteria met almost all of the time. Finished drinking water meets all applicable standards.	Several detections of chemicals of concern. Human health criteria not met some of the time. Finished drinking water meets standards after some treatment.	Frequent detections of chemicals of concern. Human health criteria often not met. Finished drinking water meets standards after considerable treatment.
<b>Contact Recreation</b>	Water quality conditions suitable for full body contact at all times.	Conditions are suitable for full body contact at least 75% of the time, but not usually after heavy rains (e.g. due to stormwater runoff and combined sewer overflows).	Conditions are not suitable for full body contact more than 25% of the time.
<b>Fish Consumption</b>	Water quality conditions indicate all fish are safe to eat.	Conditions indicate that advisories be issued against consumption of some species.	Conditions indicate that advisories be issued against consumption of any fish.

## **Monitoring (Types of)**

**Source** monitoring occurs at municipal and industrial discharge points. It evaluates the impacts of discharged effluent on the chemistry and biology of the receiving water body. It also tracks and identifies permit compliance.

Traditional **ambient** monitoring periodically evaluates general water quality conditions at fixed locations. The data over long periods of time are utilized to determine status and trends in water quality.

**Fish tissue** testing provides information on pollutants present, for example, in bass or oysters that people consume. Based on results, advisories are developed on how much fish from a particular water body can be safely eaten within a period of time.

**Intensive studies** focus on comprehensive and detailed analyses of point/nonpoint source problems, for example, in a particular estuary or river reach. They help pinpoint causes of pollution so that States can develop efficient and effective control strategies.

## **Pollutant**

A particular material in or condition of (e.g., temperature) a water body that impairs or threatens to impair the designated use. Common pollutants are sediment, nutrients, fertilizer, pathogens, physical habitat alteration, oxygen demand, suspended solids, acidity, salinity, pesticides, other toxics and air deposition.

## **Significant Violations**

Permit violations by point sources of sufficient magnitude and/or duration considered to be a regulatory priority. Categories of violations are previous enforcement actions, violations of permit compliance schedules, or effluent limits that have the potential to cause or have caused adverse environmental effects or a human health hazard.

## **Toxic Pollutants**

Materials that cause death, disease, or birth defects in organisms that ingest or absorb them. The quantities and length of exposure necessary to cause these effects can vary widely. Organic and inorganic chemicals (including heavy metals and pesticides) as well as ammonia and chlorine are common pollutants of concern.

## **Wastewater Treatment (Types of)**

**Primary treatment** removes some suspended solids using physical processes such as screening and sedimentation.

**Secondary treatment** removes biodegradable organic materials (BOD) and suspended solids from wastewater. This treatment also can remove significant amounts of toxic pollutants, nitrogen and phosphorus.

**Advanced treatment** is required if State water quality standards are not achieved through secondary treatment. It can greatly reduce nutrients, toxic chemicals, BOD and suspended solids.

## **Water Quality Standards**

Requirements adopted by State or federal law which consist of designated uses for a water body, criteria on the level of pollutants likely to allow achievement of those uses (for example, some fish are adversely affected by 50 micrograms per liter of a particular pollutant) and antidegradation policy to maintain existing uses and protect high quality waters. Standards are developed in a public process and approved by USEPA. They are implemented through point and nonpoint source programs.

## State Environmental Agencies

**Alabama** (334) 271-7823  
Department of Environmental Management

**Alaska** (907) 465-5180  
Division of Facility Construction and Operation

**Arizona** (602) 207-2306  
Department of Environmental Quality

**Arkansas** (501) 682-0656  
Department of Pollution Control and Ecology

**California** (916) 657-1627  
State Water Resources Control Board

**Colorado** (303) 692-3508  
Department of Health

**Connecticut** (360) 424-3704  
Department of Environmental Protection

**Delaware** (302) 739-5726  
Department of Natural Resources

**District of Columbia** (202) 615-6601  
Water Resources Management Division

**Florida** (904) 487-1855  
Department of Environmental Protection

**Georgia** (404) 656-4708  
Department of Natural Resources

**Guam** 011-671-472-8861  
Environmental Protection Agency

**Hawaii** (808) 586-4304  
Environmental Protection Agency

**Idaho** (208) 373-0537  
Division of Environmental Quality

**Illinois** (217) 782-1654  
Environmental Protection Agency

**Indiana** (317) 232-8476  
Department of Environmental Management

**Iowa** (515) 281-6284  
Environmental Protection Division

**Kansas** (913) 296-5500  
Department of Health and Environment

**Kentucky** (502) 564-3410  
Department of Natural Resources

**Louisiana** (504) 765-0491  
Department of Environmental Quality

**Maine** (207) 287-3901  
Department of Environmental Protection

**Maryland** (410) 631-3567  
Department of the Environment

**Massachusetts** (617) 292-5975  
Department of Environmental Protection

**Michigan** (517) 373-1949  
Department of Natural Resources

**Minnesota** (612) 296-7202  
Pollution Control Agency

**Mississippi** (601) 961-5102  
Department of Environmental Quality

**Missouri** (314) 751-6721  
Department of Natural Resources

<b>Montana</b> (406) 444-2406 Department of Health and Environmental Sciences	<b>Delaware River Basin Commission</b> (609) 883-9500
<b>Nebraska</b> (402) 471-3098 Department of Environmental Quality	<b>Interstate Commission on the Potomac River Basin</b> (301) 984-1908
<b>Nevada</b> (702) 687-4670 Division of Environmental Protection	<b>Interstate Sanitation Commission</b> (212) 582-0380
<b>New Hampshire</b> (603) 271-3503 Department of Environmental Services	<b>New England Interstate Water Pollution Control Commission</b> (508) 658-0500
<b>New Jersey</b> (609) 292-4543 Department of Environmental Protection	<b>Ohio River Valley Water Sanitation Commission</b> (513) 231-7719
<b>New Mexico</b> (505) 827-0187 Environment Department	<b>Other Informational Sources</b>
<b>New York</b> (518) 457-6674 Department of Environmental Conservation	America's Clean Water Foundation (202) 898-0988
<b>North Carolina</b> (919) 733-5083 Department of Environment, Health and Natural Resources	Association of State and Interstate Water Pollution Control Administrators (202) 828-0905
<b>North Dakota</b> (701) 328-5150 Department of Health	Association of Metropolitan Sewerage Agencies (202) 833-2672
<b>Ohio</b> (614) 644-2798 Environmental Protection Agency	Association of State Drinking Water Administrators (202) 293-7655
<b>Oklahoma</b> (405) 271-5205 Department of Environmental Quality	Association of State and Territorial Solid Waste Management Officials (202) 624-5828
<b>Oregon</b> (503) 229-5324 Department of Environmental Quality	American Water Works Association (303) 794-7711
<b>Pennsylvania</b> (717) 787-2666 Department of Environmental Protection	Council of State Governments (202) 624-5160
<b>Puerto Rico</b> (809) 767-8056 Environmental Quality Board	Izaak Walton League of America (800) BUG-IWLA
<b>Rhode Island</b> (401) 277-3961 Department of Environmental Management	Keep America Beautiful (203) 323-8987
<b>South Carolina</b> (803) 734-5296 Department of Health and Environmental Control	National Conference of State Legislatures (202) 624-5400
<b>South Dakota</b> (605) 773-5559 Department of Environment and Natural Resources	National Governors' Association (202) 624-5300
<b>Tennessee</b> (615) 532-0625 Department of Environment and Conservation	State and Territorial Air Pollution Program Administrators (202) 624-7864
<b>Texas</b> (512) 239-4300 Texas Natural Resources Conservation Commission	Tennessee Valley Authority (615) 632-4402
<b>Utah</b> (801) 538-6146 Department of Environmental Quality	US Environmental Protection Agency (202) 260-5700
<b>Vermont</b> (802) 241-3800 Department of Environmental Conservation	
<b>Virgin Islands</b> (809) 773-0565 Department of Planning and Natural Resources	
<b>Virginia</b> (804) 762-4050 Department of Environmental Quality	
<b>Washington</b> (360) 407-6405 Department of Ecology	
<b>West Virginia</b> (304) 558-2751 Division of Environmental Protection	
<b>Wisconsin</b> (608) 266-8631 Department of Natural Resources	
<b>Wyoming</b> (307) 777-7781 Department of Environmental Quality	

**STATEMENT OF WILLIAM BIRKHOFER, VICE PRESIDENT OF CORPORATE DEVELOPMENT, SVERDRUP CORP.**

Senator BOND. Now I would like to turn to Mr. Birkhofer.

Mr. BIRKHOFER. Thank you, Mr. Chairman, for the opportunity to be here today. For the record, my name is William Birkhofer. I am a vice president with the Sverdrup Corp. I am also here today representing the Hazardous Waste Action Coalition, which is a coalition of some 100 leading cleanup contracting firms like the Sverdrup Corp. throughout the United States.

We appreciate the opportunity to be here and give you some perspective from the contractor community on the Government shutdowns and the funding uncertainties that we are facing and the impact that that creates for us.

First of all, let me say that we are not here to ask for more money, either. This is not about more money at this point. This is about trying to make use of what we think is available and what can be available out there economically and efficiently, and let me say that we would much rather have that \$1.16 billion in the Superfund program on a full-year basis right now than take it intermittently, because the efficiency of taking it intermittently through a series of CR's is not going to get us to the point where we need to be with respect to this year's cleanups or next year's cleanups.

With regard to the program itself, we know that it has reached a milestone. It has reached a milestone in region 7, where you are. Two-thirds of our NPL sites are out there right now in design or actually in construction, in actual cleanup. That is the pattern that is evolving throughout the country.

This is the time that we have got to bring long-term stability and certainty to this program. The EPA people in the field, States and local governments, those in the private party community, and those of us in the response action contracting community need to look long term.

We need to allocate resources long term. We need to have some idea of what budgets are going to be available long term, and to a certain degree, you know, it is not so important to have more money as it is to have a certitude with respect to that money which will be available, and that is where we want to head now.

As we enter this point where Superfund becomes a major construction program, we are going to see cleanups at hundreds of sites moving forward very, very effectively if we can eliminate this climate of uncertainty.

For us, that climate started in late August. EPA sent out a survey to us and asked us to project our costs in the event that there were stop work orders issued or terminations of our contracts outright for the convenience of the Government. That is when we knew that we had to do some contingency planning, and we started that process then, and I will tell you that subliminally, if not in real terms, those of us in the contracting community are going to behave very conservatively until we see the stability and certitude that we need.

If we do not behave conservatively, we are going to be caught, much as Senator Lautenberg referenced it back in 1985 and 1986,

having hired a great deal of engineering, scientific, and construction capacity and not having anywhere to put it to work.

As it stands right now, under the HWAC's contract that we at Sverdrup were awarded July 1995, this past year, we are operating at about a 10-percent level of efficiency. In terms of where EPA and we thought we were going to be, we are at about 10 percent of that projected level of effort. That is not a way to get on with aggressive cleanup. It is not a way to end this program on a timely basis. It is not a way to bring some degree of comfort to the communities that are waiting for these cleanups to be accomplished.

We have some ideas about the numbers of people that were affected. We took an informal survey within HWAC. There were probably as many as 10,000 of our people that were experiencing some kind of a furlough-related impact.

Many of our companies only went that far. Some of them did not have to furlough at all. Some have had to lay off. But virtually all of us are looking at this program now, looking at what we think we are going to be able to accomplish in what remains of this fiscal year, and we are going to be making some very, very tough decisions, and right now we have to plan on the assumption that we have this intermittent possibility of stops and starts and perturbations in the program until we see more certainty. There is very little else that we can do. There is not another planning basis that we can take.

We want to get on with this program. We want to work ourselves out of a job, as it were. We think that EPA, the contracting community, the States and local governments, were equipped to get on with a much more aggressive level of cleanup. We want to do that, and we want to begin that process right now, and for us again, it would be far better to lock down on that \$1.16 billion level of funding for the rest of this year rather than face this stop-start basis of unpredictability over a succession of CR's.

#### PREPARED STATEMENT

We thank you for your leadership, Mr. Chairman, and in her absence, Senator Mikulski as well. We stand ready to support you in your efforts to move this program and all EPA programs along, and in the interests of time, I will stop here and be more than glad to entertain questions at the appropriate point.

[The statement follows:]

#### PREPARED STATEMENT OF WILLIAM BIRKHOFER

My name is Bill Birkhofer, and I am Vice President of Corporate Development for the Sverdrup Corporation, a leading U.S. engineering and construction firm headquartered in St. Louis, Missouri with 30 offices and more than 5,000 personnel nationwide.

I also serve as Chairman of the Budget/Funding Task Force of the Hazardous Waste Action Coalition (HWAC), and I am pleased to also represent its views before you today. HWAC, an element of the American Consulting Engineers Council (ACEC), includes nearly 100 of the leading U.S. engineering, scientific and construction firms engaged in hazardous waste cleanup, and represents an employment base of more than 75,000 personnel. Virtually all of these firms provide professional, construction, operations, and/or other services in connection with the Superfund program.

While we at Sverdrup are engaged in a broad range of activities associated with the planning, design, development, and operation of capital facilities and technical systems for the U.S. Government, our work as a remedial action contractor for the

Environmental Protection Agency Superfund program is one of the fastest growing elements of our expanding environmental business. As a Superfund contractor in EPA Regions 6, 7, and 8, we are engaged in remedial design, remedial action, and oversight and related response-action activities at nearly three dozen sites. Our work for the U.S. Army Corps of Engineers-led Superfund activities involves roughly 30 sites throughout the midwestern, southeastern, and southwestern United States.

Mr. Chairman, we at HWAC have been working actively to assure stable, continuing funding for Superfund. I appreciate the opportunity to appear before you today to offer our perspective on the impact of the recent government shutdowns, the continuing funding uncertainties impacting the Superfund program, and our view as to the best solution to these problems.

On behalf of my company and HWAC, we very much appreciate your Subcommittee's effort to provide continuing funding for Superfund in fiscal year 1996. In light of the pressure on the Subcommittee to fund the broad, diverse range of programs under its jurisdiction with a reduced allocation, we especially appreciate your support for increasing the level of Superfund funding in the House-Senate conference. The agreed-upon funding level of \$1.16 billion will make it easier to continue some of the most critical response actions at sites throughout the United States. We also recognize that Superfund must be reauthorized as soon as possible, to assure a more favorable funding profile for Superfund that will support a much more aggressive cleanup program in future years. My company and HWAC are working actively toward this objective.

While all of us associated with Superfund recognize the need for program reauthorization, we also know that the premise for the program is fundamentally sound. Hundreds of sites, many posing imminent public health and safety hazards, are targeted for cleanup through Superfund, and completion of those cleanups is in our highest national interest. At many of these sites in Region 7 and elsewhere, cleanups are already underway, and in the interests of health, safety, economy and efficiency, response action activities at those sites must be continued to completion.

From our perspective, the Superfund program has reached a milestone. The program has evolved from countless site investigations, waste characterizations, and other studies, to what is now a new major capital construction program. This transformation is best illustrated by data recently provided Clean Sites, a non-profit organization established by business and environmental interests to arbitrate clean up settlements of abandoned hazardous waste sites. This data indicates that in fiscal year 1984, there were 784 final sites on the National Priority List. Of those, 56 were either under construction or actually cleaned up, representing 7 percent of the total. Between fiscal year 1984 and fiscal year 1995, the number of final sites on the NPL increased 40 percent, from 784 to 1,290. In fiscal year 1995, 818 of the 1,290 sites, or 63 percent, were either being cleaned up or cleanup was completed. In EPA Region 7, where we do a great deal of our work, cleanup solutions are being designed, or actual cleanup is occurring, at roughly two-thirds of all NPL sites.

At this stage, there are major economies and efficiencies to be gained from careful priority setting, long-term planning, scheduling of work, and stable, continued funding over time. However, once remedial design and/or remedial action are underway, costs and schedules associated with actual cleanup activities are extraordinarily sensitive to sudden work stoppages, contract terminations, remobilizations, and/or reprocurement of contractor support. In this regard, the recent government shutdown and the continuing funding uncertainties impacting the Superfund program stand as contradictions to stability, continuity, sound program management, and efficient use of public lands.

The uncertainties surrounding Superfund funding began long before the government shutdowns of November and December. First, the House VA, HUD, and Independent Agencies appropriations bill included a December 31, 1995 deadline by which the Superfund program would have to be reauthorized to receive funding. Then, in late August 1995, when it was considered possible that current year EPA Superfund funding might terminate on December 31, 1995, the EPA requested Sverdrup and all Superfund contractors to project costs associated with issuance of stop-work orders, as well as costs associated with termination of Superfund contracts for convenience. By this point, the EPA and subsequently the contracting community, became very cautious about our ability to proceed with response actions. While the cutoff threat dissipated with the House-Senate conference agreement to eliminate that provision, enactment of a 1996 appropriation became increasingly uncertain.

At about the time of the President's veto of the fiscal year 1996 VA, HUD and Independent Agencies appropriation and the second 1995 government shutdown, these contractors received informal notice that issuance of stop work orders was imminent. Contractors received formal stop work orders on January 2, 1996. While

Sverdrup and a number of other major contractors were able to divert their EPA Superfund managerial and technical personnel to other work, eliminating the need for furloughs or terminations, many other contractors were not so fortunate. Overall, HWAC projected that some 10,000 Superfund contractor support personnel were furloughed during the period, either as a direct result of the stop work orders or due to continuing uncertainties. Many of the companies maintained fringe benefits, but most personnel lost actual wages. Let me reiterate that unlike their counterparts at EPA, these private sector employees will not receive wages for the days they were not on the job. While the stop work orders were rescinded in the January 8-10, 1996 time frame, it appears that most schedules for ongoing cleanups will undergo revisions and additional program costs will be incurred.

Perhaps the most serious impact of the governmental shutdown is the continuing uncertainty over Superfund program funding for the remainder of fiscal year 1996. Potential work stoppages have forced us to be highly conservative in planning for sustained activities. We are further concerned that lack of "permanent" current-year funding may soon impact Superfund contractors performing under the direction of the U.S. Army Corps of Engineers. Stop-starts and prolonged uncertainty harm not only the business planning efforts of contractors, but also of Potentially Responsible Parties, leading to increased inefficiency in a program already justifiably criticized for excess inefficiency, and creating inefficiency that otherwise does not exist in the private cleanup markets.

At present, Sverdrup and other Superfund contractors are back on the job. However, the outlook for continuity of operations at existing cleanup sites is guarded, as is the expectation of initiating new remedial design and/or remedial actions to take advantage of the upcoming construction season. Contractor plans to bring on additional engineering and construction capacity have been, or are being scaled back, and many contractors may experience significant additional reductions in current capacity.

In this regard, a simple, short-term extension of the existing continuing resolution to provide fiscal year 1996 funding for Superfund at the level included in the House-Senate conference, will assure that some Superfund operations continue, but it will do nothing to provide critically-needed longer term stability to support a more aggressive approach to cleanups during the upcoming construction season.

We believe that the nation's vital public health and safety interests, EPA's environmental stewardship responsibilities, and our professional and business interests as Superfund contractors, would be best served through enactment right now of a fiscal year 1996 appropriation for Superfund at the level of \$1.16 billion, as agreed to earlier by Congress. In this way, all of us—EPA, the Congress, and response contractors—can keep the faith of the taxpaying public, and complete cleanup of existing hazardous sites on a safe, economic, efficient and timely basis, while Congress continues the process of reauthorizing the Superfund program.

On behalf of the Sverdrup Corporation and the HWAC, thank you for the opportunity to present our views. I will be pleased to respond to your questions.

**Senator BOND.** Thank you very much, Mr. Birkhofer.

One of the things I had an opportunity to do on the floor while I was waiting is to talk to the chairman of the full committee, who shares enthusiastically the viewpoint that you have mentioned, that I have expressed, that we have seen enough of the CR's. It is time that we get on with some permanent funding. What good that will do, I do not know, but we have got a lot of enthusiasm for it.

Mr. Tulou.

**STATEMENT OF CHRISTOPHE A.G. TULOU, SECRETARY, DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

Mr. TULOU. Thank you, Mr. Chairman, and thank you for the opportunity to join you here today.

My name is Christophe Tulou. I am the secretary of the Delaware Department of Natural Resources and Environmental Control. I am also a member of the environmental committee of the Environmental Council of the States, the national nonpartisan non-profit association of State and territorial environmental commissioners.

My intent here today is to offer some insight on what the potential effects would be on Delaware's environmental programs should EPA operate under a continuing resolution for the remainder of the year, and to respond to any other questions that the subcommittee might have.

I would also like to briefly share the results of a short survey conducted by ECOS of States and how they are addressing impacts from EPA's current budget situation.

To date, the impacts of EPA's budget reductions under this fiscal year's continuing resolutions on Delaware's ability to protect human health and the environment have been minimal. However, the implications of a substantial reduction being passed along to States during the second half of this fiscal year would be grim at best.

It is difficult to sit here and tell you exactly which program's environmental resources would be most hurt by such a scenario. It is safe to assume, however, that our efforts to carry out monitoring and compliance of facilities which discharge into our waterways and our air would be diminished.

Delaware has the dubious distinction of having the highest incidence of cancer mortality in the country. We are currently trying to determine what relationship may exist between our cancer death rate and environmental exposures. This task would be virtually impossible without the prospect of sustained support and technical assistance from EPA.

In addition, projects which are breaking new ground in their innovative approaches to solving environmental problems would be compromised. These projects often offer business, industry, and individuals cheaper, more practical alternatives to reducing environmental impacts.

Of even greater concern, though, is the potential loss of flexibility with States, in concert with EPA, have been working hard to achieve. I am glad to have worked with EPA and ECOS on a process for reforming the State-EPA relationship. We were able to agree on ways to shift oversight from being, in many instances, a repetitive and wasteful function to one where EPA would reduce its oversight of strong States' programs and shift those resources to help those that need assistance.

Subsequently, Delaware, along with Illinois, Colorado, and Utah have signed performance partnership agreements with EPA. Other States, such as New Jersey, are close to signing agreements. The goals of these agreements are to allow States to establish environmental priorities and measures to gauge our progress toward meeting those priorities, whether they be meeting the Federal standard for air quality, restoring fish populations, or improving water quality of our rivers and streams.

As part of this process, we anticipate increased flexibility in addressing local problems by being able to shift Federal funds from one program to another and reducing the need for extensive EPA oversight. Whereas EPA has been more focused in the past on the amount and type of activities conducted in the State, we will now set our sights on achieving measurable environmental improvements.

This shift in the State-EPA relationship, however, may be put in serious jeopardy unless the current budget situation is resolved. In particular, I hope the Senate, through your leadership, will include the authorization of the performance partnership grants as was contained in your appropriations bill. Without adequate resources, EPA may be forced to pass along various mandated responsibilities to the States without arming the States with sufficient funds to carry out those tasks. Unfunded mandates should not be a byproduct of any proposed reduction in EPA's resources.

A congressionally funded report by the National Academy of Public Administration—and I would mention this subcommittee's leadership in that effort—recommended that EPA and Congress hand over more responsibility and decisionmaking authority to the States and local governments. This shift, the report recommended, should be based on accountable devolution of national programs, and on a reduction of EPA oversight when it is not needed. EPA should try and enhance State capability where needed and move them toward full delegation.

A shift of this magnitude obviously needs to be carefully planned and managed for a number of reasons. States need to be able to allocate existing resources appropriately and reach out to the public so that stakeholders, whether they be a regulated community or concerned individuals, understand what is expected of them and the roles of respective agencies.

However, this change, when forced by a major cut in funding, puts all of us on our heels. Rather than being able to cultivate our roles, we are forced to be reactive. We may be forced to select our priorities amidst confusion and uncertainty, leading to a reduced level of service to our constituents and potentially increased environmental degradation.

While I have spent some time discussing the need for shifting responsibility to the local level away from EPA, clearly there remains an important role for EPA, as also outlined in the NAPA report. EPA still needs to set and enforce national standards for environmental quality and pollution control in order to prevent States or cities from victimizing their neighbors.

Lead levels in our air have been virtually eliminated, thereby reducing harmful environmental exposures to millions of Americans, thanks to EPA's leadership. The Delaware River and its tributaries flow through some of the most urbanized areas in the mid-Atlantic. As a downstream State, Delaware is subject to impacts from the actions of our upstream neighbors. Assuring consistency between States for permeating and discharge standards, EPA protects all of us.

Likewise, the agency is providing a platform for discussions with the Nation's auto industry which will hopefully lead to the development of a 49-State car, which will assist many States in reducing levels of ground level ozone.

Rather than discuss in detail the results of the ecosurvey contained in my written statement, I will simply summarize. This survey suggests that although impacts may not be extraordinary yet, it may not be long until the impact of the current budget situation spread across a wider range. The continuing crisis introduces such a note of uncertainty into all of our activities that we cannot pro-

ceed. Delaware and many of its fellow States are reluctant to embark on complicated long-term programs because we are not sure that EPA will be there to help.

Thank you, Mr. Chairman, for the opportunity to share these thoughts with you in the subcommittee today.

[The statement follows:]

#### PREPARED STATEMENT OF CHRISTOPHE A.G. TULOU

Good afternoon, Mr. Chairman, ranking member Mikulski, and members of the Subcommittee.

My name is Christophe Tulou and I am the Secretary of the Delaware Department of Natural Resources and Environmental Control. I am also a member of the Executive Committee of the Environmental Council of the States, the national non-partisan, non-profit association of state and territorial environmental commissioners. My intent here today is to offer some insight on what the potential effects would be on Delaware's environmental programs should EPA operate under a continuing resolution for the remainder of the year, and to respond to other questions posed by the Subcommittee. I would also like to briefly share the results of a short survey conducted by ECOS of states and how they are addressing impacts from EPA's current budget situation.

To date the impacts of EPA's budget reductions under this fiscal year's continuing resolutions on Delaware's ability to protect human health and the environment have been minimal. However, the implications of a substantial reduction being passed along to states during the second half of this fiscal year would be grim at best. It is difficult to sit here before you today and spell out exactly which programs and environmental resources would be most hurt by such a scenario. It is safe to assume, however, that our efforts to carry out monitoring and compliance of facilities which discharge into our waterways and our air would be diminished.

Delaware has the dubious distinction of having the highest incidence of cancer mortality in the country. We are currently trying to determine what relationship may exist between our cancer death rate and environmental exposures. This task would be virtually impossible without the prospect of sustained support and technical assistance from EPA. In addition, projects which are breaking new ground in their innovative approaches to solving environmental problems would be compromised. These projects often offer business, industry and individuals cheaper, more practical alternatives to reducing environmental impacts. Of even greater concern, however, is the potential loss in flexibility which states, in concert with EPA, have been working so hard to achieve.

I am glad to have worked with EPA and ECOS on a process for reforming the State-EPA relationship. We were able to agree on ways to shift oversight from being, in many instances, a repetitive and wasteful function to one where EPA would reduce its oversight of strong state programs and shift those resources to helping those which need assistance.

Subsequently, Delaware, along with Illinois, Colorado and Utah have signed Performance Partnership Agreements with EPA. Other states such as New Jersey are close to signing agreements. The goals of these agreements are to allow states to establish environmental priorities and measures to gauge our progress toward meeting these priorities—whether they are meeting the federal standard for air quality, restoring fish populations or improving the water quality of our rivers and streams. As part of this process, we anticipate increased flexibility in addressing local problems by being able to shift federal funds from one program to another and reducing the need for extensive EPA oversight. Whereas EPA in the past has been more focused on the amount and type of activities conducted in the state, we will now set our sights on achieving measurable environmental improvements.

This shift in the State-EPA relationship, however, may be put in serious jeopardy unless the current budget situation is resolved. Without adequate resources, EPA may be forced to pass along various mandated responsibilities to the states without arming the states with sufficient funds to carry out those tasks. Unfunded mandates should not be a by-product of any proposed reduction in EPA's resources.

A Congressionally funded report by the National Academy of Public Administration recommended that EPA and Congress hand over more responsibility and decision-making authority to the states and local governments. This shift, the report recommended, should be based on "accountable devolution" of national programs and on a reduction in EPA oversight when it is not needed. EPA should try and enhance state capability where needed and move them toward full delegation.

A shift of this magnitude obviously needs to be carefully planned and managed for a number of important reasons. States need to be able to allocate existing resources appropriately and reach out to the public so that stakeholders, whether they are the regulated community or concerned individuals, understand what is expected of them and the roles of respective agencies.

However, this change, when forced by a major cut in funding, puts all of us on our heels. Rather than being able to cultivate our roles, we are forced to be reactive. We may be forced to select our priorities amidst confusion and uncertainty leading to a reduced level of service to our constituents and potentially increased environmental degradation.

While I have spent some time discussing the need for shifting responsibility to the local level away from EPA, clearly there remains an important role for EPA, as also outlined in the NAPA report, EPA still needs to set and enforce national standards for environmental quality and pollution control in order to prevent states or cities from victimizing their neighbors.

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In closing I would like to briefly share the results of a survey conducted earlier this month by ECOS. Twenty states responded. Here are the questions and responses:

(1) Have you had to furlough any employees yet? How Many? What percentage of your staff do they represent? All states replied "no" to the question. A few states reported that plans had been made if furloughs became necessary.

(2) Have you reduced levels of effort on any program or stopped any program because of federal budget limitations? While some states replied that vacancies were not being filled or that purchases were being delayed or similar delays were underway, 16 states replied that they had not reduced levels of effort or stopped programs.

(3) Have you shifted monies within your budget to cover federal shortfalls? Seven states replied that they have shifted funds or in some way altered their fiscal practices to keep programs going because of the federal budget crisis. These are, however, temporary fixes. At some point, the capacity to move money to cover shortages will cease, and with it, the programs to which that money would have gone.

(4) Has the inability to obtain reimbursement from EPA adversely impacted your activities? How? Six states reported that they had been impacted, ranging from delaying disbursements to not being able to obtain reimbursement for EPA programs which were funded, such as Superfund.

In summary, I think this survey suggests that although impacts may not be extraordinary yet, it may not be long until the impact of the current budget situation is spread across a wider range. The continuing crisis introduces such a note of uncertainty into all of our activities that we cannot proceed. Delaware and many of its fellow states are reluctant to embark on complicated, long-term programs because we are not sure that EPA will be there to help.

Thank you, Mr. Chairman, for the opportunity to share these thoughts with you today.

Senator BOND. Thank you, Mr. Tulou. It has been 11 years this month since I left the office of the Governor of the State of Missouri, and I would swear that I had used many of those same words in my appearances before Congress. Some of the words have changed, but I can assure you the tune remains the same, and I believe in it and hum it every night before I go to bed.

With that—you never heard me hum, so you do not know how bad it is—let me turn first to Ms. Savage. I had an interesting question that I wanted to raise with you. We had in the EPW Committee some testimony by Mr. Perciasepe, who said that all they really wanted in the State revolving fund over 7 years was a total of \$10 billion. How does that number strike you?

Ms. SAVAGE. Well, as you know because you were Governor at the time, when the States embarked upon the agreement which at that time we called the covenant between the Congress and the President in 1981 to move away from the grants program to a State revolving loan fund—the transition came in 1981, and as you know, the legislation was 1987. At that point, the needs were upwards of \$200 billion.

The States agreed to take on that responsibility, and this was not something, as you know, the Governors took lightly. That is a lot of money to commit to, and the State revolving loan fund was a vehicle, and I know you remember this because Mr. Stockman told a large number of us back in 1981, you better figure out what option B is because grants are not going to be around by the time President Reagan leaves office, and he was pretty close to being accurate.

So option B turned out to be the State revolving loan fund, but there was an agreement that it would be fully capitalized over a 9-year period, and that in perpetuity there would be enough money there and the flexibility for the States to do the job and to build the wastewater treatment plants, provide that money to local government to build those plants.

As you know, the funding has been very unstable over the last several years. The flexibility that we hoped would be there from the agency was not exactly what we were looking for. There were a lot of cross-cutters. A lot of our local government representatives are saying it is just not worth the hassle. We can go to the open market.

Right now, the situation is such that many of them can. The larger communities often do not even want to play in this game, as they say, because they can do better, and they need so much more money than is available that they do not utilize the State revolving loan fund.

On the other hand, we have a tremendous, tremendous need in the smaller communities. Those who never quite made it on the grants list to get that sewer plant built, they have a tremendous need out there.

I do not want to comment on Bob's number, 10 or what-not. I think what he is saying is, we need to fully capitalize the program and its functions. I support that a \$10 billion fee is wholly inconsistent with what we know we need to do the job, but as you also point out, times are tough, and we have to make some compromises.

I do not know where Bob got the number. I do not know what the calculations were that he used, but if you are looking at what we really need to make this program function, that is not adequate.

Senator BOND. Well, one of the problems we have is, we are dealing with a whole lot of promises that were made back in the days when they spent money like there was no tomorrow, and tomorrow has arrived, and we have run out of money.

I gather in 1987 they thought that the Federal dollars with the State revolving funds would be phased out by 1992. We are still trying to play catchup. We are in a position where there just does not seem—you know, we are strapped for money every place we look.

Ms. SAVAGE. Could I add, Mr. Chairman, since the 1987 amendments were passed, if you remember, the State revolving loan fund at that point was only for the wastewater construction program. Now, over time, we have added new initiatives like the nonpoint source program, sludge protection, sediment control, often we are doing lakes program, we are doing some underground storage tank work in some States, so the entire framework and the scope of what we are doing with our State revolving loan funds is significantly more than what was anticipated when we made that early commitment in 1987.

Senator BOND. Congress is bound to do that. They will give you one pot of money and tell you to do more things with it.

We do want to work with you. What would be your priorities in terms of making the program that you have now more workable? First, getting a year funding, I gather, full-year funding, so there is certainty.

Ms. SAVAGE. Right. The certainty is very important for us. The Nation's Governors have said through the NGA and our associations working together have said we would like to see a \$5 billion appropriation. We know that makes you all smile. But no less, I mean, we have to have a pretty strong \$2 billion program to do what we need to do in the bond market and make this program function, and the States seem to feel fairly comfortable that no less than \$2 billion.

The new initiatives under watershed protection are virtually being phased out. They are having to be put on the back burner. Legislatively mandated work is what the States are being forced to do now. They are freezing a number of Federal positions if they are on a Federal project, or it is part of a Federal initiative. Those positions are being either frozen or not replaced at the State level.

Christophe mentioned that a lot of commitments to do new efforts are not being made, because we are a conservative bunch, you know, and we are not going to put the States out there on the line to do the work until we know that the money is there to do it, and as you well know, because you balanced the budget for so many years in Missouri, a 10-percent cut in the last quarter can look a lot like a 40-percent cut in the last minute, so there is a lot of concern about what happens from this point on. As we leave here today, what happens with the programs?

So we would like to see \$2 billion in the State revolving loan fund, \$100 million for our nonpoint source programs, and certainly adequate funding, which is—the \$80 million is not adequate for State management grants, but at least the 1995 levels for State management, and if you give us more and more responsibilities we would certainly like more money.

Senator BOND. Maybe we could stop that. If we cannot turn the spigot on that flows the funds, maybe we can ebb the flow of the requirements and directives.

I have to ask an uncomfortable question. The administration has now said they want \$175 million for Boston Harbor in addition to the \$25 million we have already put in. The only place that comes is out of the SRF. What is the association's position?

Ms. SAVAGE. That is an uncomfortable one. Thank you very much, Mr. Chairman. The position of the Governors and of the

States through their national consensus process is that the State revolving loan fund should remain whole, and that set-asides should not be part of this process.

We moved away from the grants program. We all agreed to do that, and to piecemeal individual projects to come back in through that process, especially when EPA has gone through the process of phasing out grants, the States have done the same, and now these special projects are coming back in.

Now, you also have to recognize that there are enough special projects in enough special States that they are not going to be very appreciative, and are not appreciative of that position. Boston Harbor, I was born in Massachusetts. It is very important to me. But the position of the States is that those funds should come through the State revolving loan fund. The money should be adequate to deal with those special projects to be taken into consideration and flow through the State revolving loan fund and not as special projects in individual grants.

**Senator BOND.** It is very difficult to hold that position. I agree with you. When we go into the fire fight I would like to have some of the people with us, even though it is very uncomfortable for all of us to turn down a particular State with a compelling request. If that is the position, to the extent that you can, I would ask for your support, because to the extent that those requests are granted it takes money out of the SRF.

**Ms. SAVAGE.** I would share with you, Mr. Chairman, that EPA for quite some time shared that position with us as well.

**Senator BOND.** Things change.

Turning to Mr. Birkhofer, what are the costs when you have a shutdown of a Superfund site and have to restart at a later point? Is there a percentage number? What can you tell me about how much it costs to stop work and start up again, in addition to, obviously, delay in paying other items?

**Mr. BIRKHOFER.** Let me make a couple of points, Mr. Chairman.

First of all, there are really two types of costs associated with the kind of work stoppage that we saw on January 2. There are certainly direct costs, the costs of those that are involved in the actual cleanup, the commitments to vendors of goods and services, the excavation contractors, the drillers, all the folks that are out there on those sites that have to be demobilized and then remobilized later, and there are costs associated both with the demob and the remob.

In the longer term, there are indirect costs.

**Senator BOND.** Are those direct costs? Can you claim those from EPA, the Federal Government?

**Mr. BIRKHOFER.** We are in the process of finding that out right now.

**Senator BOND.** You are going to try?

**Mr. BIRKHOFER.** That is right. EPA has asked us when they rescinded the stop work orders on January 9 to come back to them, all of our contractors to come back to them with our costs and that will be a matter of negotiation over some period of time. It is going to take some period of time to work that out.

The other indirect impacts that would be associated with cost have to do with schedules for those activities, and to what extent

those schedules have to be adjusted, and it is hard, again, to generalize.

For the Sverdrup Corp., for example, it is likely those costs will be in the tens of thousands of dollars. For others, it may be significantly larger.

I would generalize further that for those companies, for those contractors that were more engaged in cleanups under the old ARCS contract regime, the alternative response contractor strategy regime, they have more exposure at this point than those of us that are engaged in the new response action contracting scheme that has been put in place in region 7, Mr. Chairman, but not in many other regions.

In that case, we have the costs of our managerial and technical staff that have been mobilized to support the overall management of the program, but there is not much exposure out there on individual sites at this time.

I might say, however, that with respect to costs over the long term, if we face a situation where the money comes in intermittent bursts to us, what will happen is that the overhead associated with maintaining that permanent cadre of management and technical people will not spread itself as far over the range of cleanup activities.

What will also happen is, we may draw back from response action or actual construction activities because they are longer term and require a larger commitment of resources and move back into a position where we are doing more work, say, on remedial investigation feasibility type activities because those are predictably of shorter duration and easier to put smaller amounts of resource against, so it is not a terribly efficient way to run the program. It is going to be more overhead burdensome. It is going to be more management intensive.

Senator BOND. Are the cleanups operating at a normal level now, or has EPA directed contractors to operate at a low level of effort due to the uncertainty of the final funding?

Mr. BIRKHOFER. Again, it is a matter of judgment, and our partners at EPA and the contracting community are moving forward together on this, but suffice it to say, it is hard to find certainty that would allow us to commit ourselves to, say, a 6-month construction contracting activity when we only have 4 to 6 weeks of funding to work with.

Senator BOND. It would be fair to say that, had the VA-HUD bill which passed in December been signed, the pace of site cleanups now would be much faster than it is currently. How would that compare to the 1995 levels, and how would that compare to what is actually happening now?

Mr. BIRKHOFER. Well, again, we would certainly be in a state with an active appropriation, where we could see a funding profile for the balance of this year that would allow us to commit ourselves a bit more aggressively, particularly as we look ahead to this next construction season.

Over the next several weeks, what we have to be concerned about are those construction actions that we might be able to bring about in this current upcoming construction season and those that

might have to be foregone again if we are operating under this condition of uncertainty.

With respect to 1996 versus 1995, you have to look, in our view, not only at the overall amount provided for Superfund, but the amount specifically provided for response activities, and in that regard your actions have established a response action line within the Superfund account at a sufficiently high level—in fact, a higher level than 1995, we believe, that would allow us to proceed, in fact, with most of the cleanup activities that we are already projecting as being out there.

There are some questions about how many new starts we could get to, but certainly we could make good progress on the work that is already underway.

Senator BOND. That is one of the points we wanted to make, and I hope that everybody got that point.

Turning to Mr. Tulou, you already talked about this a little bit, but I want to reemphasize it because I think it is important.

As you indicated, the measure that was vetoed had a provision authorizing EPA to provide the performance partnership grants, and as I understand that, the States could receive a bloc grant for environmental activities, rather than 13 to 14 categorical grants medium by medium.

What difference would this kind of bloc grant make for Delaware? How significant a difference, and how do you see just the change in structure? Assuming the same dollar total, how would that affect your abilities to handle it?

Mr. TULOU. Well, it is an efficiency. What it would allow us to do in the first instance is direct Federal funding coming to the agency in the directions that were important to Delaware, for example.

What we have found under the traditional environmental approach is that we have been pretty well told that our priorities in Delaware are pretty much the same as they are in North Dakota, and with all due deference to the North Dakotans, they do not have a whole lot of coastal wetland problems like we do.

The other benefit is that by being able to direct those resources that way, it falls well into the management relationship we are establishing with EPA through the performance partnership agreement process, and that is one where the question is posed in the first instance, what are your priorities as a State, and how can we aid your capacity to deal with those questions?

It is a terrific question coming from a Federal agency. A lot of States were taken aback by it, frankly. They did not know exactly how to respond. We thought it was a terrific question. We answered it as fast as we could and got an agreement locked in. We were about 1 week behind Illinois, but we were the second State to get that agreement finalized, because we did not want that question to be retracted.

But it was a fundamental issue in the NAPA report that the subcommittee was very interested in having done, and we feel it is very important. It is a good question, it is a good answer, and we are really happy to be involved in that process.

Senator BOND. One of the great horror stories we had in the early eighties in Missouri was the Federal requirement that we use

our wastewater cleanup money to install secondary treatment on plants in St. Louis and Kansas City that were feeding into the Missouri and Mississippi River, which wound up putting higher quality water into the river than was already there, where our priority in Missouri was to deal with many small communities located in the pristine, beautiful vacation destination Ozarks of Missouri where the pristine streams offered swimming, fishing, recreational activities, and where a small community's problems could cause a very significant degradation in the quality of the stream. That is a point that people overlook when you talk about establishing Federal priorities.

Are there still examples like that that you are running into, or is a new day coming where you can get out from under the North Dakota model and put your emphasis on the coastal wetlands management?

Mr. TULOU. I think that day is coming. As a matter of fact, as far as we are concerned, given the question that was posed by EPA to work with us to address Delaware's priorities, we feel that that answer is already at hand.

But as a practical matter, there are still a lot of people within our agency and within EPA that are still struggling with this new concept, and so we are still burdened with a series of categorical grant work plans that have to be produced, and what we are committing to each other in our region with EPA and the State is that we will replace all of that work with the performance partnership agreement that we reach. That will be the blueprint. That will be where people will go to see what the nature of the commitment is.

The other significant thing is here, following on the prioritization that we have agreed to, is that we have real measures of success based on environmental indicators that are the things that our constituents and your constituents are interested in seeing. They want cleaner air. They want to be able to catch fish, and they want to be able to eat fish that are not contaminated themselves.

They do not care that we have generated 15 gozillion reports during the course of the year, and frankly would agree with us that that is a distraction from the real work that we ought to be doing, and in that context, yes, we are still struggling trying to get that sort of culture change in place in every direction, but I think certainly the folks in our department are beginning to see the wisdom of it and the value of it, and are very excited about working in a multidisciplinary way that the whole performance partnership process will permit.

Senator BOND. And you can spare a whole bunch of trees you will not have to cut down for reports.

Mr. TULOU. That is exactly right.

Senator BOND. I would rather save the fish.

You have probably heard some of the criticisms that this committee has encountered. It is said the bill that we passed, the appropriations bill would take the environmental cop off the beat. You have stated very clearly that you agree with Mary Gade and NAPA that, in fact, State governments, State agencies are effective environmental law enforcers.

What percentage of the States—and obviously, there are some that are better than others. How far along are we toward the goal

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where States can do the job that you would want done for your citizens in Delaware, and I assume that you believe that you can do what you would want for your family in terms of environmental enforcement. How far along are we toward that process?

Mr. TULOU. Oh, I would just clarify the assumption that the States can assume all of those responsibilities sufficiently to take care of our constituents. We never will be able to do that.

Senator BOND. No; but you can play a much more active role, and in some States you can take—I did not mean to say all of the responsibility. Certainly nobody is getting rid of EPA enforcement. To what extent can you now, and to what extent are there still some deficiencies in States? What percentage of the States would not be able to meet those standards?

Mr. TULOU. That would be a very difficult question for me to answer in terms of all the States. As you have indicated, the States are very different in their approaches, but they are also very different in their problems.

One of the problems that we have had is that if you use that across-the-board approach to determining what appropriate environmental action is, yes, indeed, you are going to find very different answers to the question, because States' priorities are different, and if you assume that all those priorities are the same, then the measure of a State's success is going to vary.

I think the States have a terrific amount of capacity now that they did not have before to assume many of those responsibilities. What we cannot do is assume in the State of Delaware the responsibilities of Pennsylvania, New Jersey, and Maryland to do the right thing themselves.

Senator BOND. You need the national standards. You need the EPA to set the standards.

Mr. TULOU. And to assist us with the enforcement issues as well.

Senator BOND. And to make sure that if one of those upstream States is not enforcing it, that is when the EPA can come in.

We have got a little upstream problem I will not bother you here, but the Dakotas and some of those States do drain into us, so we know a little bit about that. Different issue, different times.

But you believe a significant number of States can handle a significant number of these responsibilities now?

Mr. TULOU. And I think the key issue there is defining a new relationship with EPA to make sure that there are no gaps and that performance partnership process is a terrific way of doing it. What are the priorities, where are the capacity shortfalls, and how can we work together to fill those?

Senator BOND. Have you seen any of the statements Mary Gade has about stumbling over EPA in the past, where Federal enforcement has caused you problems in State enforcement?

Mr. TULOU. Mr. Chairman, I am no Mary Gade.

Senator BOND. She is a friend of yours.

Mr. TULOU. And she is terrific. I am sorry she could not appear personally before the committee today, but I would have to say that frankly we do not stumble over EPA. We have a very good relationship with our region, and I know that that varies from State to State and region to region, and I think part of the reason is that we are small enough to be able to very effectively deal with the

folks that we have to deal with, and it is a very personal relationship in many instances, and our region has a lot of faith in our ability.

Having said that, though, going through this process we are recognizing areas where that job is better done by the State, and this other function is a better function for EPA. Let us formalize that, and make sure that in collectivizing our resources that we can address those.

But I think Mary's concerns are a little bit stronger, frankly, than ours are in Delaware.

Senator BOND. Well, my sincere thanks to all of you. Had we not had the delay of the vote, I was hoping to turn you loose to make your travel arrangements before this point, but now that it is 4:30, I would say that if you have any further thoughts, we would be happy to have them on a continuing basis, and we appreciate the guidance you have given this committee.

We will keep the record open in case any of my colleagues do have questions. The challenge is that we probably have a long way to go along these avenues, and we would welcome the further thoughts of you and all of the people that you represent.

#### CONCLUSION OF HEARING

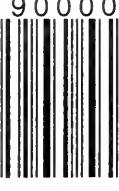
Thank you very much for lending us your time and your expertise. It is important to me that we have on the record some of the very real concerns you have expressed today.

That concludes the hearing. The subcommittee is recessed to reconvene at the call of the Chair.

[Whereupon, at 4:30 p.m., Friday, January 26, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]



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